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GOVERNMENT GAZETTE

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SUPPLEMENT (SUPLEMENTO)

GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/2650/68

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on the 9th August 1968 is hereby published for general information in pursuance of the provisions of rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

THE GOA, DAMAN AND DIU LAND REVENUE CODE BILL, 1968

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THE GOA, DAMAN AND DIU
LAND REVENUE CODE BILL, 1968

(Bill No. 11 of 1968)

A BILL

TO CONSOLIDATE AND AMEND THE LAW
RELATING TO LAND AND LAND REVENUE
IN THE UNION TERRITORY OF GOA,
DAMAN AND DIU

Whereas it is expedient to consolidate and amend the law relating to land and land revenue in the Union territory of Goa, Daman and Diu and to provide for matters connected therewith;

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. **Short title, extent and commencement.** — (1) This Act may be called the Goa, Daman and Diu Land Revenue Code, 1968.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas and for different provisions of this Code.

2. **Definitions.** — In this Code, unless the context otherwise requires, —

(1) "agriculture", with its grammatical variations and cognate expressions, means raising of useful or

valuable products which derive nutriment from the soil with the aid of human labour and skill and includes horticulture, dairy farming, poultry farming, stock breeding and grazing;

(2) "boundary mark" means any erection, whether of earth, stone or other material, and also any hedge, unploughed ridge, or strip of ground, or other object whether natural or artificial, set up, employed, or specified by a survey officer or revenue officer having authority in that behalf, in order to designate the boundary of any division of land;

(3) "class of land" means any of the following classes of land, namely, dry crop, rice, garden land or non-arable;

(4) "classification value" means the relative valuation of land as recorded in the survey records having regard to its soil, water, situation and other advantages;

(5) "Collector", means the Collector of the district and includes any officer appointed by the Government to exercise and perform all or any of the powers and functions of a Collector under this Code; and includes an Additional Collector, Assistant Collector and Deputy Collector;

(6) "commencement of this Code", in relation to any provision, means the date specified in respect of that provision in a notification under sub-section (3) of section 1;

(7) "competent authority" in relation to any provision, means any officer appointed by the Government to be the competent authority for the purpose of that provision;

(8) "family" means, in relation to a person, the wife or husband of such person, his children, grandchildren, parents and brothers, and in the case of a joint Hindu family, any member of such family;

(9) "gaothan land" means the land situated within the existing limits of the site of a village, town or city and includes the land which may be so determined under Section 65 of the Code;

(10) "Government" means the Administrator of Goa, Daman and Diu, except in respect of section 162, in which it means both the Central Government and the Administrator of Goa, Daman and Diu.

(11) "Government lessee" means a person holding land from Government under a lease as provided in section 27.

(12) "group" means all lands in a zone, which in the opinion of the Government or an officer authorised by it in this behalf are sufficiently homogeneous in respect of the factors enumerated in sub-section (2) of section 70 to admit of the application to them of the same standard rates for the purpose of assessment of land revenue;

(13) "holder" means a person lawfully in possession of land, whether such possession is actual or not;

(14) "holding" means a portion of land held by a holder

(15) "improvement", in relation to any land, means any work which materially adds to the value of the land and which is suitable to the land and consistent with the purpose for which it is held and which, if

not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it; and subject to the foregoing provisions, includes—

- (i) the construction of tanks, wells, water channels and other works for the storage, supply and distribution of water for agricultural purposes or for human use or for cattle employed in agriculture;
- (ii) the construction of works for the drainage of land or for the protection of land from floods or from erosion or from other damage by water;
- (iii) the preparation of land for irrigation;
- (iv) the conversion of single crop land into double or multiple crop land;
- (v) the reclaiming, clearing, enclosing, levelling or terracing of land used for agricultural purposes;
- (vi) the erection on land or in the immediate vicinity thereof, otherwise than on the village site, of a building or house for the occupation of the tenant, his family and servants or a cattle-shed, a storehouse or other construction for agricultural purposes or of any building required for the convenient or profitable use or occupation of the land; and
- (vii) the renewal or reconstruction of any of the foregoing works or such alterations therein or additions thereto as are not of the nature of ordinary repairs;

(16) "land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth or other defined portions thereof;

(17) "land revenue" means all sums and payments, in money received or legally claimable by or on behalf of the Government from any person on account of any land or interest in or right exercisable over land held by or vested in him, under whatever designation such sum may be payable and any cess or rate authorised by the Government under the provisions of any law for the time being in force; and includes, premium, rent, lease money, or any other payment provided under any Act, rule, contract or deed on account of any land;

(18) "minor" means a person who is deemed not to have attained majority under the Indian Majority Act, 1875;

(19) "Official Gazette" means the Goa, Daman and Diu Government Gazette;

(20) "non-agricultural assessment" means the assessment fixed on any land under the provisions of this Code or rules thereunder with reference to the use of the land for a non-agricultural purpose;

(21) "occupancy" means a portion of land held by an occupant;

(22) "occupant" means a holder in actual possession of land, other than a tenant or Government lessee; provided that, where a holder in actual possession is a tenant, the land holder shall be deemed to be the occupant;

(23) "occupation" means possession;

(24) "to occupy land" means to possess or to take possession of land;

(25) "pay", "payable" and "payment", used with reference to land revenue or rent, includes "deliver", "deliverable" and "delivery";

(26) "prescribed" means prescribed by rules made under this Code;

(27) "revenue officer" means every officer of any rank whatsoever appointed under any of the provisions of this code, and employed in or about the business of the land revenue or of the surveys, assessment, accounts, or records connected therewith;

(28) "settlement" means the result of the operations conducted in a zone in order to determine the land revenue assessment;

(29) "standard rate" means, with reference to any particular class of land in a group, the value of six hundredths of the average yield of crops per acre on land in that class of one hundred paise classification value;

(30) "survey mark" means, for the purposes of this Code, a mark erected for purposes of cadastral survey of land;

(31) "survey number" means a portion of land of which the area and assessment are separately entered, under an indicative number in the land records;

(32) "tenant" means a person who cultivates or holds the land of another person under an agreement, express or implied, on condition of paying rent there for and includes a person deemed to be a tenant under the Goa, Daman and Diu Agricultural Tenancy Act, 1964; but does not include a lessee holding directly under the Government;

(33) "term of settlement" means the period for which the Government has declared that a settlement shall remain in force;

(34) "Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965, or any other Tribunal constituted by the Government for this purpose;

(35) "village" means any tract of land which before the commencement of this code was recognised as or was declared to be a village under any law or usage for the time being in force or which may after such commencement be recognised as a village at any settlement or which the Government may, by notification in the Official Gazette, declare to be a village; and includes a town, a city and all the land composed in a village, town or city for the purposes of this code;

(36) "year" means the agricultural year commencing on such date as the Government may, in the case of any specified area, by notification in the Official Gazette, appoint;

(37) "zone", means a local area comprising a taluka or a group of talukas or portions thereof of one or more districts, which in the opinion of the Government or an officer authorised by it in this behalf, is contiguous and homogenous in respect of

- (i) physical configuration,
- (ii) climate and rainfall,
- (iii) principal crops grown in the area, and
- (iv) soil characteristics.

CHAPTER II

Revenue Divisions, Revenue Officers and their appointment.

3. Power to create, alter or abolish districts, sub-divisions, etc. — (1) The Government may, by notification in the Official Gazette, constitute the territories, to which this code extends, into one or more districts, and may similarly divide any district into sub-divisions, sub-divisions into talukas and talukas into villages and may alter the limits of, or abolish, any district, sub-division or taluka.

(2) The Collector may by an order published in the prescribed manner arrange the villages in a taluka which shall constitute a saza; and the sazas in a taluka which shall constitute a circle, and may alter the limits of, or abolish, any saza or circle, so constituted.

(3) The districts, sub-divisions, talukas, circles and sazas existing at the commencement of this code shall continue respectively to be the districts, sub-divisions, talukas, circles and sazas under this code unless otherwise provided under sub-section (1) or (2).

4. Appointment of revenue and survey officers. — The Government, or such officer as may be authorised by Government in this behalf, may appoint the following classes of revenue and survey officers, namely —

- (a) Collector;
- (b) Director of Settlement and Land Records;
- (c) Sub-divisional officers, including Assistant Collectors and Deputy Collectors;
- (d) Survey and Settlement Officers;
- (e) Superintendent of Surveys and Land Records;
- (f) Assistant Survey and Settlement Officers;
- (g) Inspectors of Surveys and Land Records;
- (h) Mamlatdars, including Joint Mamlatdars,
- (i) Awalkarkuns;
- (j) Revenue Inspectors;
- (k) Village Accountants or Talathis; and
- (l) Such other village officers and servants as may be specified by rules made under this Act.

5. Chief controlling authority in revenue matters. — The chief controlling authority in all matters connected with the land revenue shall be the Government.

6. Function of the Collector and certain other revenue officers. — (1) Each district shall be placed under the charge of a Collector who shall be in charge of the revenue administration of the district and exercise the powers and discharge the duties of the Collector under this Code or any other law for the time being in force and shall exercise such other powers of superintendence and control within the district and over the officers subordinate to him as may, from time to time, be prescribed.

(2) Each sub-division shall be placed under the charge of a subdivisional officer.

(3) Each Taluka shall be placed under the charge of a Mamlatdar.

(4) The duties and powers of the Sub-Divisional Officers, the Mamlatdars and other revenue officers shall be such as may be imposed or conferred on

them by or under this Code or any other law for the time being in force or by any general or special order of the Government published in the Official Gazette:

Provided that in case of appointment of Additional Collectors, Assistant or Deputy Collectors or Joint Mamlatdars by Government in such number as it may deem necessary in each district, such officers shall exercise such of the powers and discharge such of the duties of the Collector, the Sub-Divisional Officer or the Mamlatdar under this Code or any other law for the time being in force as the Government may direct specifically, by notification, in this behalf.

Explanation:

- (a) An Additional Collector shall not be subordinate to the Collector except in such matters as Government may, by general or special orders, specify in this behalf.
- (b) An Assistant Collector or Deputy Collector shall not be subordinate to the Sub-Divisional Officer in the Sub-Division except in such matters as the Government may, by general or special orders, specify in this behalf.
- (c) A Joint Mamlatdar shall not be subordinate to the Mamlatdar in the Taluka except in such matters as the Government may, by general or special orders, specify in this behalf.

7. Village accountant and village Patel. — (1) It shall be lawful for the Government to appoint a village accountant or talathi for a village or a group of villages. It shall also be lawful for the Government to appoint a village Patel.

(2) The village accountant and the Patel shall perform all the duties as hereinafter prescribed by this Code or any other law for the time being in force and shall be assisted by such village servants as may be appointed from time to time.

8. Village officer to keep such records as may be prescribed. — Government may prescribe from time to time what registers, accounts and other records shall be kept by the village officers.

9. Settlement and survey officers. — The officers specified in clauses (b), (d), (e) and (g) of section 4 shall have power to take cognisance of all matters connected with the survey of land and the settlement of revenue rates and the preparation and maintenance of land records and other registers and shall exercise all such powers and perform all such duties as may be prescribed.

10. Subordination of revenue officers. — All revenue officers shall be subordinate to the Government; and subject to the Explanation to section 6 all revenue officers in the district or sub-division shall be subordinate to the Collector or the Sub-Divisional Officer, as the case may be.

11. Combination of offices. — It shall be lawful for the Government to appoint one and the same person to any two or more of the offices provided for in this Chapter, to make any appointment by virtue of office and also to confer on any officer of the Government all or any of the powers and duties of any revenue officer.

12. Notification of appointments. — All appointments made under this Chapter except appointments of awal karkuns, revenue inspectors and village accountants and other village officers and servants shall be notified in the Official Gazette; but the appointment shall take effect from the date on which an officer assumes charge of his office.

13. Seals. — The Government shall, from time to time, by notification in the Official Gazette, specify the revenue officers who shall use a seal and also the size and description of the seal which each such officer shall use.

CHAPTER III

Of lands

14. Title of Government to lands, etc. — (1) All lands, public roads, lanes and paths and bridges, ditches, dikes and fences on or beside the same, the bed of the sea and of harbours and creeks below the high water mark, and of rivers, streams, nallahs, lakes and tanks, and all canals and water courses, and all standing and flowing water and all rights in or over the same or appertaining thereto, which are not the property of any person, are and are hereby declared to be the property of the Central Government subject to right of way, and all other rights, public and individual, legally existing.

Explanation: — In this section, "high water-mark" means the highest point reached by ordinary spring tides at any season of the year.

(2) Unless it is otherwise expressly provided in any law for the time being in force or in the terms of a grant made by the Government, the right to mines, minerals and mineral products shall vest in the Central Government and it shall have all the powers necessary for the proper enjoyment of such rights.

(3) Where any property or any right in or over any property is claimed by or on behalf of the Central Government or by any person as against the Central Government and the claim is disputed, such dispute shall, after due notice has been given and after holding a formal inquiry, be decided by the Collector or a Survey Officer.

(4) Any person aggrieved by an order made under sub-section (3) or in appeal or revision therefrom may institute a civil suit to contest the order within a period of six months from the date of such order, and the decision of the civil court shall be binding on the parties.

(5) Any suit instituted in any civil court after the expiration of six months from the date of any order passed under sub-section (3) or, if appeal has been made against such order within the period of limitation, then from the date of any order passed by the appellate authority, shall be dismissed (though limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has had due notice of such order.

(6) Any person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the Government.

15. Extinction of rights of public and individuals in or over any public road, land or path not required for use of public. — (1) Whenever it appears to the Government that any public road, lane or path which is the property of the Central Government or part thereof, is not required for the use of the public, the Government may, by a notification published in the Official Gazette, make a declaration to such effect, stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over any such road, lane or path, or part thereof, as the case may be, shall be extinguished. On the publication of such notification, the Collector shall, as soon as possible, cause public notice of such declaration to be given at convenient places on, or in the vicinity of, such road, lane or path, or part thereof, as the case may be. Such declaration and notice shall specify, as far as practicable, the situation and limits of such road, lane or path, or part thereof, and shall invite objections to the aforesaid proposal.

(2) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over such road, lane or path, or part thereof, or having any other interest or right which is likely to be adversely affected by the proposal may, within ninety days after the issue of the notification under sub-section (1), state to the Collector in writing his objections to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected, and the amount and particulars of his claim to compensation for such interest or right:

Provided that the Collector may allow any person to make such a statement after the period of ninety days after the issue of the notification under sub-section (1), if he is satisfied that such person had sufficient cause for not making it within the said period.

(3) The Collector shall give every person, who has made a statement to him under sub-section (2), an opportunity of being heard either in person or by pleader and shall, after hearing all such persons in such manner and after making such further inquiry, if any, as he thinks necessary, determine the amount of compensation, if any, which should, in his opinion, be given in any case in respect of any substantial loss or damage likely to be caused by the proposed extinction of the rights of the public as well as of individuals as aforesaid. The provisions of sections 9, 11, 12, 13, 14 and 15 of the Land Acquisition Act, 1894, shall, so far as may be, apply to the proceedings held by the Collector for the determination of the amount of compensation under this sub-section:

Provided that no compensation shall be awarded for the extinction or diminution of the right of public highway over such road, lane or path or part thereof.

(4) The Collector shall submit to the Government the record of the proceedings held by him with a report containing his recommendations on the objections, if any, received by him and stating the amounts of compensation, if any, which, in his opinion, are payable to any persons.

(5) If the Government is satisfied after considering the record of the proceedings and the report, if any, made under sub-section (4), that the public

road, lane or path, or part thereof, specified in the notification under sub-section (1), is not required for the use of the public, a declaration shall be published in the Official Gazette that all rights of the public as well as of individuals in or over such road, lane or path thereof are extinguished; and all such rights shall thereupon be extinguished, and such road, lane or path, or part thereof, shall be at the disposal of the Government with effect from the date of such declaration.

(6) The decision of the Collector regarding the amount of compensation and the person to whom such compensation, if any, is payable, shall, subject to any modification made by the Government, be final, and payments shall be made by the Collector to such persons accordingly.

16. Rights to trees, forest, etc. — (1) The right to all trees, jungles or other natural products growing on land set apart for forest reserves and to all trees, brush wood, jungle or other natural product, wherever growing, except in so far as the same may be the property of any person, shall vest in the Central Government, and such trees, brush wood, jungle or other natural product shall be preserved or disposed of in such manner as may be deemed fit by Government.

(2) All road-side trees which have been planted and reared by or under the orders or at the expense of the Government and all trees which have been planted and reared by the side of any road belonging to the Central Government shall vest in that Government.

(3) The Government may, by order, prohibit cutting, gathering, removing the timber or teak, black-wood, sandalwood trees and such other trees as may be mentioned therein, which exist in the property of another person, and thereupon such trees shall not be cut down, gathered or removed, without the permission of the competent authority.

(4) Any act interfering with trees, their timber, foliage etc. mentioned in the preceding sub-sections, shall be deemed to be an offence under section 188 of the Indian Penal Code.

17. Recovery of value of trees, etc., unauthorisedly appropriated.—Any person who shall unauthorisedly fell and appropriate any tree or any portion thereof which is the property of the Central Government shall be liable to the Government for the value thereof, which shall be recoverable from him as an arrear of land revenue, in addition to any penalty to which he may be liable under the provisions of this Code for the occupation of the land or otherwise and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Central Government property.

18. Lands may be assigned for special purposes, and when assigned, shall not be otherwise used without sanction of Collector.—Subject to the general orders of the Government, it shall be lawful for a survey officer during the course of survey operations under this Code, and at any other time for the Collector, to set apart unoccupied lands (not in the lawful occupation of any person), in villages or parts thereof for forest or fuel reserve, for free pasturage of village cattle or for grass or fodder reserve, for burial or cremation ground, for gaathon,

for camping ground, for threshing floor, for bazaar, for skinning ground, for public purposes such as roads, lanes, parks, drains or for any other public purpose; and the lands assigned shall not be otherwise used without the sanction of the Collector and in the disposal of lands under section 21 due regard shall be had to all such special assignments.

19. Recovering value of natural products unauthorisedly removed from certain lands.— Any person who unauthorisedly removes from any land which is set apart for a special purpose or from any land which is the property of the Central Government any natural product (not being trees) shall be liable to the Government for the value thereof, and in addition, to a fine not exceeding five times the value, of the natural product so removed. Such value and fine shall be recoverable from him as an arrear of land revenue.

Of the Grant of Land

20. Classes of holders of land.— (1) Land granted under the provision of this Code or any other law shall be held under one of the following classes of holders as may be specified in the order of grant:

- (a) Occupants — Class I
- (b) Occupants — Class II
- (c) Government lessees.

(2) Occupants — Class I — are persons who shall be entitled to hold land in perpetuity and without any restrictions on the right to transfer.

(3) Occupants — Class II — are persons who shall be entitled to hold land in perpetuity but subject to restrictions on the right to transfer as may be prescribed by rules.

(4) Government lessees — are persons who are entitled to hold land for a fixed period under a lease from Government granted under section 27.

21. Grant of land.— (1) Subject to the rules made in this behalf, Government may grant land belonging to or vesting in the Central Government for agricultural purposes or for non-agricultural purposes as may be specified in the order of grant.

(2) Such rules may provide inter alia for the following matters, namely:—

- (a) the extent to which land shall be granted for specified purposes;
- (b) the occupancy price payable for the land and the mode of its payment;
- (c) cases in which no occupancy price may be charged or in which concessional occupancy price may be charged;
- (d) the order of priority to be observed when land is granted for agricultural purposes;
- (e) the conditions subject to which the land is granted;
- (f) the penalty for breach of the conditions of grants;
- (g) the cases in which the power of grant of land shall be exercised by the Collector or the Mamlatdar.

22. Grant of alluvial land vesting in Central Government.— (1) Where it appears to the Collector

that any alluvial land, which vests under any law for the time being in force in the Central Government, may with due regard to the interests of the public revenue, be disposed of, he shall, subject to the rules made in this behalf, offer the same to the occupant (if any) of the bank or shore on which such alluvial land has formed. The occupancy price of the land so offered shall not exceed half the market value of the land.

(2) If the occupant does not accept the offer, the land may be disposed of by auction.

Explanation.— For the purpose of this section, notwithstanding anything contained in clause (22) of section 2, if the bank or shore has been mortgaged with possession, the mortgagor shall be deemed to be the occupant thereof.

23. Temporary right to alluvial lands of small extent.— When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use thereof unless or until the area of the same exceeds one half hectare. When the area of the alluvial land exceeds one half hectare, it shall be at the disposal of the Collector subject to the provisions of section 22.

24. Disposal of intestate occupancies.— (1) If an occupant dies intestate and without known heirs, the Collector shall take possession of his occupancy and may lease it for a period of one year at a time.

(2) If within three years of the date on which the Collector takes possession of the occupancy, any claimant applies for the occupancy, being restored to him, the Collector may, after such enquiry as he thinks fit, place such claimant in possession of the occupancy or reject his claim.

(3) The order of the Collector under sub-section (2) shall not be subject to appeal or revision but any person whose claim is rejected under sub-section (2) may, within one year from the date of the communication of the order of the Collector, file a suit to establish his title, and if such suit is filed, the Collector shall continue to lease out the land as provided in sub-section (2), till the final decision of the suit.

(4) If no claimant appears within three years from the date on which the Collector took possession of the occupancy or if a claimant whose claim has been rejected under sub-section (2) does not file a suit within one year as provided in sub-section (3), the Collector may sell the right of the deceased occupant in the occupancy by auction.

(5) Notwithstanding anything contained in any law for the time being in force, a claimant, who establishes his title to the occupancy which has been dealt with in accordance with the provisions of this section, shall be entitled only to the rents payable under sub-section (1) and the sale-proceeds realised under sub-section (4), less all sums due on the occupancy on account of land revenue and the expenses of management and sale.

25. Occupancy to be transferable and heritable subject to certain restrictions.— (1) An occupancy shall, subject to the provision contained in section 47 and to any conditions lawfully annexed to the tenure, and save as otherwise provided by law, be deemed an heritable and transferable property.

(2) Notwithstanding anything contained in the foregoing sub-section, occupancies of persons belonging to such Scheduled Tribes as the Government by a notification in the Official Gazette may, regard being had to the ability of the occupants to cultivate the land personally or any other relevant factors, if any, declare for the purpose of this section for the whole or any part of the Union territory, shall not be transferred except with the previous sanction of the Collector.

(3) Notwithstanding anything contained in sub-section (1) or in any other provisions of this Code, or in any other law for the time being in force, it shall be lawful for an Occupant—Class II—to mortgage his property in favour of the Government in consideration of a loan advanced to him by the Government under the Land Improvement Loan Act, 1883, the Agriculturists Loans Act, 1884, or in favour of a co-operative society in consideration of a loan advanced to him by such co-operative society, and without prejudice to any other remedy open to the Government, or as the case may be, the co-operative society in the event of such occupant making default in payment of such loan in accordance with the terms on which such loan is granted, it shall be lawful for the Government, or as the case may be, the co-operative society to cause the occupancy to be attached and sold and the proceeds to be applied towards the payment of such loan.

(4) The Collector may, on the application of the society, and payment of the premium prescribed by the Government in this behalf, by order in writing re-classify the occupant—as Occupant—Class I; and on such re-classification, the occupant shall hold the occupancy of the land without any restriction on transfer under this Code.

Explanation.—For the purposes of this section, "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the Union territory of Goa, Daman and Diu under article 342 of the Constitution of India.

26. Occupants' rights are conditional.—An occupant is entitled to the use and occupation of his land in perpetuity conditionally on the payment of the amount due on account of the land revenue for the same, according to the provisions of this Code, or of any rules made under this Code or of any other law for the time being in force, and on the fulfilment of any other terms or conditions lawfully annexed to his tenure.

27. Powers to grant lease.—It shall be lawful for the Collector at any time to lease under grant or contract any unoccupied land to any person, for such purpose and on such conditions as he may, subject to rules made by the Government in this behalf, determine, and in any such case the land shall, whether a survey settlement has been extended to it or not, be held only for the period and for the purpose and subject to the conditions so determined. The grantee shall be called a Government lessee in respect of the land so granted.

28. Occupant to pay land revenue and Government lessee to pay rent fixed.—Every occupant shall pay as land revenue the assessment fixed under the

provisions of this Code and rules made thereunder; and every Government lessee shall pay as land revenue lease money fixed under the terms of the lease.

29. Saving of powers of Government.—Nothing contained in any provision of this Code shall derogate from the right of the Government to dispose of any land, the property of the Central Government, on such terms and conditions as it deems fit.

Of Use of Land

30. Uses to which holder of land for purposes of agriculture may put his land.—A holder of any land assessed or held for the purpose of agriculture is entitled by himself, his servants, tenants, agents or other legal representatives to erect farm buildings, construct wells or tanks or made any other improvements thereon for the better cultivation of the land, or its more convenient use for the purpose aforesaid.

31. Permission for non-agricultural use.—No land used for agriculture shall be used for any non-agricultural purpose; and no land assessed for one non-agricultural purpose shall be used for any other non-agricultural purpose or for the same non-agricultural purpose but in relaxation of any of the conditions imposed at the time of the grant or permission for non-agricultural purpose, except with the permission of the Collector under section 33.

32. Restriction on use.—Subject to the rules made by the Government in this behalf, the Collector or a Survey Officer may regulate or prohibit the use of land liable to the payment of land revenue for purposes such as, cultivation of unarable land in a survey number assigned for public purpose, manufacture of salt from agricultural land, removal of earth, stone, kankar, murum or any other material from the land assessed for the purpose of agriculture only, so as not to destroy or materially injure the land for cultivation, removal of earth, stone (other than loose surface stone), kankar, murum or any other material from the land assessed as a building site, excavation of land situated within a gaathan; and such other purposes as may be prescribed; and may summarily evict any person who uses or attempts to use the land for any such prohibited purpose.

33. Procedure for conversion of use of land from one purpose to another.—(1) If an occupant of land or a tenant of such land—

(a) which is assessed or held for the purpose of agriculture wishes to use it for a non-agricultural purpose, or

(b) if land is assessed or held for a particular non-agricultural purpose, wishes to use it for another non-agricultural purpose, or

(c) desires to use it for the same non-agricultural purpose for which it is assessed but in relaxation of any of the conditions imposed at the time of grant of land or permission for such non-agricultural purpose,

such occupant or tenant shall, with consent of the tenant, or as the case may be, of the occupant, apply to the Collector for permission in accordance with the form prescribed.

(2) The Collector, on receipt of an application, —

(a) shall acknowledge the application within seven days;

(b) may, unless the Collector directs otherwise, return the application if it is not made by the occupant or as the case may be, the tenant or if the consent of the tenant, or as the case may be, of the occupant has not been obtained, or if it is not in accordance with the form prescribed;

(c) may, after due enquiry, either grant the permission on such terms and conditions as he may specify subject to any rules made in this behalf by the Government; or refuse the permission applied for, if it is necessary so to do to secure the public health, safety and convenience or if such use is contrary to any scheme for the planned development of a village, town or city in force under any law for the time being in force and in the case of land which is to be used as building sites in order to secure in addition that the dimensions, arrangement and accessibility of the sites are adequate for the health and convenience of the occupiers or are suitable to the locality; where an application is rejected, the Collector shall state the reasons in writing of such rejection.

(3) If the Collector fails to inform the applicant of his decision within ninety days from the date of acknowledgement of the application, or from the date of receipt of the application if the application is not acknowledged, or within fifteen days from the date of receipt of application for a temporary change of user or where an application has been duly returned for the purposes mentioned in clause (b) of sub-section (2), then within ninety days from the date on which it is again presented duly complied with, the permission applied for shall be deemed to have been granted, but subject to any conditions prescribed in the rules made by the Government in respect of such user.

(4) The person to whom permission is granted or deemed to have been granted under this section shall inform the Mamlatdar in writing through the village officers the date on which the change of user of land commenced, within thirty days from such date.

(5) If the person fails to inform the Mamlatdar within the period specified in sub-section (4), he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct but not exceeding five hundred rupees.

(6) When the land is permitted to be used for a non-agricultural purpose, a sanad shall be granted to the holder thereof in the form prescribed under the rules.

(7) It shall be lawful for the Collector, either on his own motion or on the application of a person affected by the error to direct at any time the correction of any clerical or arithmetical error in the sanad arising from any accidental slip or omission.

34. Penalty for so using land without permission.

(1) If any land held or assessed for one purpose is used for another purpose without obtaining permission of the Collector under section 33 or before the expiry of the period after which the change of user is deemed to have been granted under that section, or in contravention of any of the terms and condi-

tions subject to which such permission is granted, or the holder thereof or other person claiming through or under him, as the case may be, shall be liable to the one or more of the following penalties, that is to say, —

- (i) to pay non-agricultural assessment on the land with reference to the altered use;
- (ii) to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of this Code such fine as the Collector may, subject to rules made by the Government in this behalf, direct;
- (iii) to restore the land to its original use or to observe the conditions on which the permission is granted within such reasonable period as the Collector may by notice in writing direct; and such notice may require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied.

(2) If any person fails within the period specified in the notice aforesaid to take steps required by the Collector, the Collector may also impose on such person a penalty not exceeding three hundred rupees for such contravention, and a further penalty not exceeding thirty rupees for each day during which the contravention continues. The Collector may himself take those steps or cause them to be taken; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

Explanation: — Using land for the purpose of agriculture where it is assessed with reference to any other purpose shall not be deemed to be change of user.

35. Responsibility of tenant or other person for wrongful use. — If a tenant of any holder or any person claiming under or through him uses land for a purpose in contravention of the provisions of section 31, 32 or 33 without the consent of the holder and thereby renders the holder liable to the penalties specified in section 31, 32 or 33 the tenant or the person, as the case may be, shall be responsible to the holder in damages.

36. Power of Government to exempt lands from provisions of section 31, 33, 34 or 35. — Nothing in section 31, 33, 34 or 35 shall prevent —

(a) the Government from exempting any land or class of lands from the operation of any of the provisions of those sections, if the Government is of opinion that it is necessary, in the public interest for the purpose of carrying out any of the objects of this Code to exempt such land or such class of lands; and

(b) the Collector from regularising the non-agricultural use of any land on such terms and conditions as may be prescribed by him subject to rules made in this behalf by the Government.

37. Government title to mines and minerals. — (1) Unless it is otherwise expressly provided by the

terms of the grant made by the Government, the right to all minerals at whatever place found, whether on surface or underground, including all derelict or working mines and quarries, old dumps, pits, fields, bandhas, nallas, creeks, river-beds and such other places, is and is hereby declared to be expressly reserved and shall vest in the Central Government which shall have all powers necessary for the proper enjoyment of such rights:

Provided that, nothing in this Code shall be deemed to affect any subsisting rights of any person in respect of such mines or minerals in his land.

(2) The right to all mines and quarries includes the right of access to land for the purpose of mining and quarrying and the right to occupy such other land as may be necessary for purposes subsidiary thereto, including the erection of offices, workmen's dwellings and machinery, the stacking of minerals and deposit of refuse, the construction of roads, railways or tram-lines, and any other purposes which the Government may declare to be subsidiary to mining and quarrying.

(3) If the Government has assigned to any person its right over any minerals, mines or quarries, and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (1) and (2) should be exercised, the Collector may, by an order in writing, subject to such conditions and reservations as he may specify, delegate such powers to the person to whom the right has been assigned:

Provided that, no such delegation shall be made until notice has been duly served on all persons having rights in the land affected, and their objections have been heard and considered.

(4) If, in the exercise of the right herein referred to over any land, the rights of any person are infringed by the occupation or disturbance of the surface of such land, the Government or its assignee shall pay to such persons compensation for such infringement and the amount of such compensation shall, in the absence of agreement, be determined by the Collector or, if his award is not accepted, by the civil court, in accordance with the provisions of the Land Acquisition Act, 1894.

(5) No assignee of the Government shall enter on or occupy the surface of any land without the previous sanction of the Collector unless compensation has been determined and tendered to the persons whose rights are infringed:

Provided that, it shall be lawful for the Collector to grant interim permission pending the award of the civil court in cases where the question of determining the proper amount of compensation is referred to such court under sub-section (4).

(6) If an assignee of the Government fails to pay compensation as provided in sub-section (4), the Collector may recover such compensation from him on behalf of the persons entitled to it, as if it were an arrear of land revenue.

(7) Any person who without lawful authority extracts, removes, collects, replaces, picks up or disposes of any mineral from working or derelict mines, quarries, old dumps, fields, bandhas (whether on the plea of repairing or construction of bunds of the fields or on any other plea), nallas, creeks, river-

-beds, or such other places wherever situate, the right to which vests in, and has not been assigned by the Government, shall, without prejudice to any other mode of action that may be taken against him, be liable, on the order in writing of the Collector, to pay penalty not exceeding a sum determined, at three times the market value of the minerals so extracted, removed, collected, replaced, picked up or disposed of, as the case may be:

Provided that, if the sum so determined is less than one thousand rupees the penalty may be such larger sum not exceeding one thousand rupees as the Collector may impose.

(8) Without prejudice to the provision in sub-section (7), the Collector may seize and confiscate any mineral extracted, removed, collected, replaced, picked up or disposed of from any mine, quarry or other place referred to in sub-section (7), the right to which vests in, and has not been assigned by, the Government.

(9) The Government may make rules to regulate the extraction and removal of minor minerals required by inhabitants of a village, town or city for their domestic, agricultural or professional use on payment of fees or free of charge, as may be specified in the rules.

Explanation — For the purposes of this section, «minor minerals» means the minor minerals in respect of which the Government is empowered to make rules under section 15 of the Mines and Minerals (Regulation and Development) Act, 1957.

Of Encroachment on Land

38. Removal of encroachments on land vesting in Central Government; provisions for penalty and other incidental matters. — (1) In the event of any encroachment being made on any land or foreshore vested in the Central Government (whether or not in charge of any local authority), it shall be lawful for the Collector to summarily abate or remove any such encroachment and the expenses incurred therefor shall be leviable from the person in occupation of the land encroached upon and the person who is responsible for the encroachment.

(2) The person who made such encroachment or who is in unauthorised occupation of the land so encroached upon shall pay, if the land encroached upon forms part of an assessed survey number, assessment for the entire number for the whole period of the encroachment, and if the land has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land used for the same purpose. Such person shall pay in addition a fine which shall be not less than five rupees but not more than one thousand rupees if the land is used for an agricultural purpose, and if used for a purpose other than agriculture such fine not exceeding two thousand rupees.

(3) The Collector may, by notice duly served under the provisions of this Code, prohibit or require the abatement or removal of encroachments on any such lands, and shall fix in such notice a date which shall be a reasonable time after such notice, on which the same shall take effect.

(4) Every person who makes, causes, permits or continues any encroachment on any land referred to in a notice issued under sub-section (3), shall in addition to the penalties specified in sub-section (2), be liable at the discretion of the Collector to a fine not exceeding twenty-five rupees in the case of encroachment for agricultural purposes and fifty rupees in other cases for every day during any portion of which the encroachment continues after the date for the notice to take effect.

(5) An order passed by the Collector under this section shall be subject to appeal and revision in accordance with the provisions of this Code.

(6) Nothing contained in sub-sections (1) to (4) shall prevent any person from establishing his rights in a civil court within a period of six months from the date of the final order under this Code.

39. Regularisation of encroachments.— Nothing in section 38 shall prevent the Collector, if the person making the encroachment so desires, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to fix an assessment not exceeding five times the ordinary annual land revenue thereon and to grant the land to the encroacher on such terms and conditions as the Collector may impose subject to rules made in this behalf; and then to cause the said land to be entered in land records in the name of the said person;

Provided that no land shall be granted as aforesaid, unless the Collector gives public notice of his intention so to do in such manner as he considers fit, and considers any objections or suggestions which may be received by him before granting the land as aforesaid. The expenses incurred in giving such public notice shall be paid by the person making the encroachment; and on his failure to do so on demand within a reasonable time, shall be recovered from him as an arrear of land revenue.

40. Value and land revenue how calculated.— (1) For the purposes of sections 38 and 39, the value of land that has been encroached upon shall be fixed by the Collector according to the market value of similar land in the same neighbourhood at the time of such valuation; and the annual revenue of such land shall be assessed at the same rate as the land revenue of similar land in the vicinity.

(2) The Collector's decision as to the value of land and the amount of land revenue or assessment payable for the land encroached upon shall be conclusive, and in determining the amount of land revenue, occupation for a portion of year shall be counted as for a whole year.

41. Summary eviction of person unauthorisedly occupying land vesting in Central Government.—(1) If in the opinion of the Collector any person is unauthorisedly occupying or wrongfully in possession of any land or foreshore—

- (a) vesting in the Central Government; or
- (b) to the use or occupation of which he is not entitled or has ceased to be entitled by reason of—
 - (i) any of the provisions of this code, or
 - (ii) the expiry of the period of lease or tenancy or termination of the lease or tenancy for breach of any of the conditions annexed to the tenure, or

- (iii) it being not transferable without the previous permission under sub-section (2) of section 25 or by virtue of any condition lawfully annexed to the tenure under the provision of section 20, 26, or 33,

it shall be lawful for the Collector to summarily evict such person in the manner provided in sub-section (2).

(2) The Collector shall serve a notice on such person requiring him within such time as may appear reasonable after receipt of the said notice to vacate the land or foreshore, as the case may be, and if such notice is not obeyed, the Collector may remove him from such land or foreshore.

(3) A person unauthorisedly occupying or wrongfully in possession of land or foreshore after he has ceased to be entitled to continue the use, occupation or possession by virtue of any of the reasons specified in sub-section (1), shall also be liable at the discretion of the Collector to pay a penalty not exceeding two times the assessment or rent for the land or foreshore for the period of such unauthorised use or occupation.

42. Forfeiture and removal of property left over after summary eviction.— (1) After summary eviction of any person under section 41, any building or other construction erected on the land or foreshore or any crop raised in the land shall, if not removed by such person after such written notice as the Collector may deem reasonable, be liable to forfeiture or to summary removal.

(2) Forfeitures under this section shall be adjudged by the Collector and any property so forfeited shall be disposed of as the Collector may direct; and the cost of the removal of any property under this section shall be recoverable as an arrear of land revenue.

Of Relinquishment of Land

43. Relinquishment.—An occupant may relinquish his land, that is, resign in favour of the Government, but subject to any rights, tenures, incumbrances or equities lawfully subsisting in favour of any person other than the Government or the occupant, by giving notice in writing to the Mamlatdar not less than thirty days before the date of commencement of the agricultural year, and thereupon, he shall cease to be an occupant from the agricultural year next following such date:

Provided that, no portion of land which is less in extent than a whole survey number or sub-division of a survey number may be relinquished.

44. Right of way to relinquished land.— If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

Protection of certain occupancies from process of courts

45. Occupancy when not liable to process of civil court; court to give effect to Collector's certificate.— In any case where an occupancy is not transferable without the previous sanction of the Collector, and such sanction has not been granted to a transfer which has been made or ordered by a civil court or on which the court's decree or order is founded,

(a) such occupancy shall not be liable to the process of any court, and such transfer shall be null and void, and

(b) the court, on receipt of a certificate under the hand and seal of the Collector, to the effect that any such occupancy is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed on or set aside any sale of or affecting, such occupancy.

CHAPTER IV

Of Land Revenue

46. Liability of land to land revenue.— (1) All lands, to whatever purpose applied, other than lands owned by the Central Government, but not leased, are liable to payment of land revenue to the Government.

(2) The Government may exempt any land from the liability to such payment by means of a special grant or contract or in accordance with any law for the time being in force.

47. Land revenue to be a paramount charge on the land.— Arrears of land revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the holding together with all rights of the holder over all trees, crops, buildings and things attached to the land or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Collector may levy all sums in arrears by sale of the holding, or may otherwise dispose of such holding in the prescribed manner and such holding, when disposed of, whether by sale as aforesaid, or by restoration to the defaulter, or by transfer to another person or otherwise howsoever, shall, unless the Collector otherwise directs, be deemed to be free from all tenures, rights, encumbrances and equities theretofore created in favour of any person other than the Government in respect of such holding.

48. Forfeited holdings may be taken possession of and otherwise disposed.— It shall be lawful for the Collector in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under section 47 or any law for the time being in force, to take immediate possession of such holding and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Code or any other law for the time being in force.

49. To prevent forfeiture of occupancy certain persons other than occupant may pay land revenue.— In order to prevent the forfeiture of an occupancy under the provisions of section 47 or of any other law for the time being in force, through non-payment of the land revenue due on account thereof by the person primarily liable for payment of it, it shall be lawful for any person interested to pay on behalf of such person all sums due on account of land revenue and the Collector shall on due tender thereof receive the same:

Provided that, nothing authorised or done under the provisions of this section shall affect the rights

of the parties interested as the same may be established in any suit between such parties in a court of competent jurisdiction.

50. Alluvial lands.— All alluvial lands, newly formed islands or abandoned river beds, which vest under any law for the time being in force in any holder of land, shall be subject in respect of liability to land revenue to the same privileges, conditions and restrictions as are applicable to the original holding by virtue of which such lands, islands or river beds vest in the said holder, but no revenue shall be leviable in respect of any such lands, islands or river beds, unless the area of the same exceeds half hectare.

51. Land revenue in case of diluvion.— Every holder of land paying land revenue in respect thereof shall be entitled, subject to such rules as may be made in this behalf, to a decrease of assessment if any portion thereof not being less than half hectare in extent, is lost by diluvion.

52. Assessment of land to land revenue.— (1) The assessment of land revenue on any land shall be made or deemed to have been made, as the case may be with reference to the use of the land—

- (a) for the purpose of agriculture,
- (b) for the purpose of residence,
- (c) for industrial or commercial purpose,
- (d) for any other purpose.

(2) Where land assessed for use for any one purpose is diverted to any other purpose, the land revenue payable upon such land shall, notwithstanding that the term for which the assessment may have been fixed has not expired, be liable to be altered and assessed at a different rate provided for under this Code in accordance with the purpose for which it is used or is permitted to be used. The alteration of assessment shall be made in accordance with the rules made in this behalf.

53. Reduction, suspension or remission of land revenue.— Notwithstanding anything contained in this Code, the State Government may, in accordance with the rules or special orders made in this behalf, grant reduction, suspension or remission in whole or in part of land revenue in any area in any year due to failure of crops, floods, or any other natural calamity or for any reason whatsoever.

54. Responsibility for payment of land revenue.— (1) The following persons shall be primarily liable for the payment of land revenue assessed on land including all arrears of land revenue due in respect of the land, namely:—

- (a) the occupant of the land; and
- (b) the lessee of the Government.

(2) Where there are two or more persons liable to pay land revenue or arrears of land revenue under sub-section (1), all of them shall be jointly and severally liable for its payment.

(3) In case of default by any person who is primarily liable under this section, the land revenue, including arrears as aforesaid, shall be recoverable from any person in possession of the land:

Provided that, where such person is a tenant, the amount recoverable from him shall not exceed the demands of the year in which the recovery is made:

Provided further that, when land revenue is recovered under this section from any person who is not primarily liable for the same, such person shall be allowed credit of any payments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

55. Receipts for land revenue.— Every revenue officer receiving payment of land revenue shall, at the time when such payment is received by him, give a written receipt for the same.

CHAPTER V

Survey of Land

56. Revenue survey, settlement and term of settlement.— The operation carried out in accordance with the provisions of this Chapter, or of the rules made under this Act, in order to determine or revise the land revenue payable on lands, and for the preparation and preservation of record of rights connected therewith or for any other similar purpose in any local area is called a revenue survey. Such survey may extend to the lands of any village, town or city, generally, or to such land as the Government may direct.

57. Government to direct revenue survey.— Whenever the Government thinks it expedient so to do, it may, by notification in the Official Gazette, direct the revenue survey of any local area with a view to the settlement of the land revenue and to the preparation of a record of rights connected therewith or the revision of any existing settlement or of record of rights. For this purpose the Government may authorise the Collector or depute a Survey officer to undertake the work.

58. Survey officer may require by general notice or by summons, suitable service from holders of land etc.— It shall be lawful for a survey officer deputed to conduct or take part in any such survey or a survey under section 63 to require by general notice or by summons the attendance of holders of land and of all persons interested therein, in person, or by legally constituted agent duly instructed and able to answer all material questions, and the presence of taluka and village officers, who in their several stations and capacities are legally or by usage, bound to perform service in virtue of their respective offices, and to require from them such assistance in the operation of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

59. Assistance to be given by holders and others in measurement or classification of lands.— It shall be lawful for a survey officer, while conducting surveys mentioned in the preceding section to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders; and in the event of a necessity for employing hired labour for this or other similar object incidental to survey operations, it shall be lawful to assess the cost thereof, will all contingent expenses

on the lands surveyed, for collection as a revenue demand.

60. Survey numbers and villages.— Subject to the minimum size of a survey number that may be fixed from time to time for the several classes of land by the Government, the survey officer may—

(a) divide the lands to which the revenue survey extends into survey numbers and group the survey numbers into villages; or

(b) recognise the existing survey numbers, re-constitute them or form new survey numbers; or

(c) subject to the provisions of any law for the time being in force for the prevention of fragmentation and consolidation of holdings, divide the survey numbers into as many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.

61. Entry of survey numbers and sub-divisions in records.— The area and assessment of survey numbers and sub-divisions of survey numbers shall be entered in such records as may be maintained under the rules made by the State Government in that behalf.

62. Partition.— (1) Subject to the provisions of any law for the time being in force for the prevention of fragmentation and consolidation of holdings, a holding may be partitioned on the decree of a civil court or on application of co-holders in the manner hereinafter prescribed.

(2) If in any holding there are more than one co-holder, any such co-holder may apply to the Collector for a partition of his share in the holding:

Provided that, where any question as to title is raised, no such partition shall be made until such question has been decided by a civil suit.

(3) Subject to the provisions of sub-section (4), the Collector may, after hearing the co-holders, divide the holding and apportion the assessment of the holding in accordance with the rules made by the Government under this Code.

(4) The application under sub-section (2) shall be rejected if the partition applied for results in creating a holding, the area or land revenue of which will be below such limits as may be prescribed.

(5) Expenses properly incurred in making partition of a holding paying revenue to the Government shall be recoverable as a revenue demand in such proportion as the Collector may think fit from the co-holders at whose request the partition is made, or from the persons interested in the partition.

63. Division of survey numbers into new survey numbers.— Where any portion of cultivable land is permitted to be used under the provisions of this Code for any non-agricultural purpose or when any portion of land is specially assigned under section 18, or when any assessment is altered or levied on any portion of land under sub-section (2) of section 52, such portion may, with the sanction of the Collector, be made into a separate survey number at any time.

64. Survey made before commencement of this Code to be deemed to be made under this Chapter.— Any surveys heretofore made, and introduced under any law for the time being in force or otherwise, and

in operation on the date of the commencement of this Code, shall be deemed to have been made under the provisions of this Chapter.

65. Limit of sites of villages, towns and cities how to be fixed. — It shall be lawful for the Collector or for a survey officer, acting under the general or special orders of the Government, to determine what lands are included within the site of any village, town or city, and to fix, and from time to time to vary the limits of the same, regard being had to all subsisting rights of land holders.

66. City Survey how to be conducted. — The Government may, at any time, direct a survey or re-survey of lands, other than those used ordinarily for the purpose of agriculture only, within the site of any village, town, or city. Such survey shall be conducted and all its operations shall be regulated according to the provisions made in the preceding sections of this Chapter.

67. In certain cases a survey fee to be charged. — Every holder of a building site, in respect of which a survey under the preceding section is carried out, shall be liable to the payment of a survey fee at such rates as may be prescribed.

68. Sanad to be granted without extra charge. — Every holder of a building site, as aforesaid, shall be entitled, after payment of the said survey fee, to receive without extra charge, one or more sanads, in the prescribed form specifying, by plan and description, the extent and conditions of his holding.

CHAPTER VI

Assessment and settlement of Land Revenue of Agricultural Land

69. Power of Government to direct original or revision settlement of land revenue of any lands. — The Government may at any time direct a settlement of land revenue of any land (hereinafter referred to as an "original settlement"), or a fresh settlement thereof (hereinafter referred to as "revision settlement"), whether or not a revenue survey thereof has been made under section 57:

Provided that, no enhancement of assessment shall take effect before the expiration of the settlement for the time being in force.

70. Assessment how determined. — (1) The land revenue assessment on all lands in respect of which a settlement is directed under section 69, shall be determined by dividing the lands to be settled into groups and fixing the standard rates for each group in accordance with the rules made by the Government in this behalf.

(2) The groups shall ordinarily be formed on a consideration of the following factors:—

- (i) physical configuration,
- (ii) climate and rainfall,
- (iii) prices, and
- (iv) yield of principal crops,

Provided that, if deemed necessary, the following factors may also be taken into consideration in forming the group namely:—

- (i) markets,
- (ii) communications,

- (iii) standard of husbandry,
- (iv) population and supply of labour,
- (v) agricultural resources,
- (vi) variations in the area of occupied and cultivated lands during the last 30 years,
- (vii) wages,
- (viii) ordinary expenses of cultivating principal crops, including the wages of the cultivator for his labour in cultivating the land,
- (ix) sales of lands used for the purpose of agriculture.

71. Increase in average yield due to the improvement at the expense of holders not to be taken into account. — If during 30 years immediately preceding the date on which the settlement for the time being in force expires, any improvements have been effected in any land by or at the expense of the holder thereof, the increase in the average yield of crops of such land due to the said improvements shall not be taken into account in fixing the revised assessment thereof.

72. Settlement Officer, how to proceed for making a settlement. — In making a settlement the Settlement Officer shall proceed as follows:—

(1) He shall hold an enquiry in the prescribed manner;

(2) He shall divide the lands to be settled into groups as provided by section 70;

(3) He shall ascertain in the prescribed manner the average yield of crops of lands for the purpose of the settlement;

(4) He shall then fix standard rates for each class of land in each group on a consideration of the relevant factors as provided in sub-section (2) of section 70;

(5) He shall submit to the Collector in the prescribed manner a report (hereinafter called the settlement report) containing his proposals for the settlement.

73. Settlement report to be printed and published.

—(1) After the settlement report has been submitted to the Collector, the Collector shall cause such report to be published in the prescribed manner.

(2) There shall also be published in each village concerned, in such language as the Administrator of Goa, Daman and Diu may in this behalf prescribe, a notice, stating for each class of land in the village, the existing standard rate and the extent of any increase or decrease proposed therein by the Settlement Officer. The notice shall also state that any person may submit to the Collector his objections in writing to the proposals contained in the settlement report within three months from the date of such notice.

74. Submission of settlement report to Government and Government orders thereon. — (1) After taking into consideration such objections as may have been received by him, the Collector shall forward to the Government the settlement report with his remarks thereon. The Government shall pass such orders thereon as it may deem fit.

(2) No increase in the standard rates proposed in the settlement report shall be made unless a fresh notice as provided in sub-section (2) of section 73 has been published in each village affected by such rates and objections received, if any, have been considered by the Government.

(3) The orders passed by the Government under sub-section (1) shall be final and shall not be called in question in any Court.

75. Powers of Government to place surcharge or grant rebate after every ten years. — (1) Notwithstanding anything contained in this Chapter, it shall be lawful for the Government in any year, after the expiry of every ten years from the date on which the settlement was introduced under section 76, to enhance or reduce the assessment on land in any zone, by placing a surcharge, or granting a rebate on the assessment by reference to the alteration of the prices of the principal crops in such zone.

(2) For the purpose of sub-section (1) the prices of principal crops shall be recorded and published in the Official Gazette.

(3) The surcharge shall be levied or the rebate shall be granted under sub-section (1) according to the scale prescribed by rules made in this behalf.

76. Introduction of settlement. — After the Government has passed orders under section 74 and notice of the same has been given in the prescribed manner, the settlement shall be deemed to have been introduced and the land revenue according to such settlement shall be levied from such date as the Government may direct:

Provided that in the year in course of which a survey settlement, whether original or revised, may be introduced under this section, the difference between the old and the new assessment of all lands, on which the latter may be in excess of the former, shall be remitted and the revised assessment shall be levied only from the next following year:

Provided further that in the year next following that in which any original or revised survey settlement has been introduced any holder who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey numbers or sub-divisions of survey numbers held by him shall, on relinquishing such number or sub-division in the manner provided by section 43, receive a remission of the increase so imposed.

77. Publication of table of revenue rates. — The table of standard rates finally prescribed by the Government under Section 74 and introduced under section 76 shall be published in the Official Gazette.

78. Preparation of statistical and fiscal records. — (1) It shall be the duty of the survey officer or the Settlement Officer, on the occasion of making or revising the settlement of land revenue, to prepare a register, to be called the "Settlement register", showing the area and assessment of each survey number, with any other particulars that may be prescribed, and other records, in accordance with such orders as may, from time to time, be passed in this behalf by the Government.

(2) The table of standard rates published under section 77 shall be incorporated in and form part of the settlement register of the village.

79. Term of settlement. — A settlement shall remain in force for a period of thirty years and on the expiry of such period, the settlement shall continue to remain in force until the commencement of the term of a fresh settlement.

80. Assessment on individual survey number and sub-division. — The Settlement Officer shall calculate the assessment on each survey number and sub-division in accordance with the standard rates confirmed and finally published under section 77 and taking into consideration their classification value in the prescribed manner.

81. Additional assessment for water advantages. — Notwithstanding anything contained in this Chapter, the Government may direct that any land, in respect of which the rate of revenue has been determined, shall be liable to be assessed to additional land revenue during the term of the settlement for additional advantages accruing to it from water received on account of irrigation works or improvements in the existing irrigation works completed after the table of standard rates comes into force and effected by or at the expense of the holder of the land.

82. Continuance of survey operations at commencement of Code. — All survey operations commenced under any law for the time being in force, or any rule, order or direction of the Government, and either completed or continuing at the commencement of this Code, shall be deemed to have been commenced, completed or to be continuing under the provisions of this Chapter.

83. Power of Collector to correct errors, etc. — (1) The powers and duties exercisable by the officers referred to in section 9 may be exercised, during the terms of settlement by the Collector or such other revenue officer, as may be specified by the Government, for the purpose, by notification in the Official Gazette.

(2) The Collector may, at any time during the term of settlement, correct any error in the area or the assessment of any survey number or sub-division, due to a mistake of survey or arithmetical miscalculation:

Provided that no arrear of land revenue shall become payable by reason of such correction.

CHAPTER VII

Assessment and settlement of Land Revenue of lands used for non-agricultural purposes

84. Non-agricultural assessment of lands to be determined on basis of their non-agricultural use and having regard to urban and non-urban areas. — The non-agricultural assessment of lands shall be determined with reference to the use of the land for non-agricultural purpose and having regard to urban and non-urban areas in which the lands are situated; and shall be determined and levied in accordance with the provisions of this Chapter.

85. Procedure for determining non-agricultural assessment of lands in non-urban areas. — (1) The Collector shall, subject to the approval of the Go-

vernment, by notification in the Official Gazette, divide the villages in non-urban areas into two classes — Class I and Class II — on the basis of the market values of lands, due regard being had to the situation of the lands, the non-agricultural purpose for which they are used, and the advantages and the disadvantages attaching thereto.

(2) The Collector shall, subject to the general or special orders of the Government, assess lands falling in Class I according to the non-agricultural purpose for which they are used at a rate not exceeding two paise per square metre per year, and those falling in Class II at a rate not exceeding 1 paise per square metre per year, regard being had to the market value of lands used for the non-agricultural purpose, so however, that the assessment so fixed is not less than the agricultural assessment which may be leviable on such land.

86. Procedure for determining non-agricultural assessment in urban areas. — The Collector shall divide urban areas into blocks on the basis of the market value of lands, due regard being had to the situation of the lands, the non-agricultural purposes for which they are used, and the advantages and disadvantages attaching thereto.

87. Non-agricultural assessment not to exceed three per cent of full market value. — The non-agricultural assessment on lands in each block in an urban area shall not exceed three per cent. of the full market value thereof, when used as a building site.

88. Power of Collector to fix standard rate of non-agricultural assessment. — (1) Subject to the provisions of section 87, the Collector shall, with the approval of the State Government, fix the rate of non-agricultural assessment per square metre of land in each block in an urban area (to be called «the standard rate of non-agricultural assessment») at such percentage of the full market value of such land as may be prescribed.

Explanation — For the purpose of this sub-section, the full market value shall be estimated in the prescribed manner on the basis of sales of land during the period of fifteen years immediately preceding the year in which the standard rate of non-agricultural assessment is to be fixed.

(2) The standard rate of non-agricultural assessment shall remain in force for a period of ten years; and shall thereafter be deemed to be in force, until such rate is revised in accordance with the provisions of this Chapter.

(3) The standard rates of non-agricultural assessment fixed or revised as aforesaid shall be published in the Official Gazette, and in such other manner as may be prescribed before they are brought into force.

89. Rate of assessment of lands used for non-agricultural purposes. — (1) Subject to the provisions of this section, the rate of assessment in respect of lands in urban areas —

(a) used for purposes of residential building, shall be the standard rate of non-agricultural assessment;

(b) used for the purposes of industry, shall be one and one half times the standard rate of non-agricultural assessment;

(c) used for purposes of commerce, shall be twice the standard rate of non-agricultural assessment;

(d) used for any other non-agricultural purpose, shall be fixed by the Collector, at a rate not less than the standard rate of non-agricultural assessment, and not exceeding one and one-half times that standard rate, regard being had to the situation, and special advantages or disadvantages attaching to such lands.

(2) Where any land is used for any non-agricultural purpose for a period of six months or less, the non-agricultural assessment shall be half of that fixed for land used for that non-agricultural purpose.

90. Date of commencement of non-agricultural assessment. — The non-agricultural assessment shall be levied with effect from the date on which any land is actually used for a non-agricultural purpose.

91. Term of assessment fixed under section 86 and 89. — The non-agricultural assessment fixed according to the provisions of sections 86 and 89 shall remain in force for a period of fifteen years from the date on which the land is actually used for the non-agricultural purpose, or as the case may be, from the date of change of user of the land; and on the expiry of such period, shall be liable to revision; but till the assessment is revised, the assessment fixed as aforesaid shall continue in force:

Provided further that when the non-agricultural assessment is revised, the revised assessment shall not exceed two times the land revenue payable immediately before the revision, if the land is used for purposes of residential buildings, and shall not exceed six times the land revenue payable immediately before revision, if the land is used for any other non-agricultural purpose.

92. Lands exempt from payment of non-agricultural assessment. — Lands used for the following purposes shall be exempt from the payment of the non-agricultural assessment, namely:

(1) Lands used by an agriculturist for an occupation subsidiary or ancillary to agriculture, such as the erection of sheds for hand-looms, or such other occupations as the Government may specify in rules made in that behalf;

(2) Lands used for purposes connected with the disposal of the dead;

(3) Lands solely occupied and used for public worship;

(4) Lands used for an educational or a charitable purpose the benefit of which is open to all citizens without distinction of religion, race, caste, place of birth or any of them;

(5) Lands used for any other public purpose which the Government may by rules made under this Code declare to be exempt, for such period and subject to such conditions as may be specified therein;

(6) Such agricultural lands (outside a gaathan, if any) in a non-urban area converted to non-agricultural use for purposes of residential building as the State Government may, by notification in the Official Gazette, specify.

93. Revocation of exemption. — It shall be lawful for the Government to direct that any land which

is exempt under the provisions of section 92 from payment of non-agricultural assessment shall cease to be so exempt if the land is used for any purpose other than that for which the exemption is provided; thereupon the land shall be liable to payment of the assessment according to the provisions of this Chapter, and in addition, to such fine as the Collector may, subject to the general orders of the Government, direct.

94. **Non-agricultural assessment of lands wholly exempt from payment of land revenue.**— Nothing in this Chapter shall be deemed to prevent the Collector from determining and registering the proper full non-agricultural assessment on lands wholly exempt from payment of such assessment.

CHAPTER VIII

Land Records

95. **Preparation of record of rights.**— It shall be lawful for the Government to take all measures for the preparation and maintenance of land records, including the record of rights and maps, and all other matters connected therewith or incidental thereto, in accordance with such rules and directions as may be made in this behalf.

96. **Record of rights.**— (1) A record of the rights in land as occupant, tenant, Government lessee, mortgagee or howsoever, shall be maintained in every village in a prescribed form and such record of rights shall include the following particulars, namely—

(a) survey number, sub-division number, area, assessment of the land and the tenure on which it is held;

(b) names of all persons who are occupants, Government lessees or mortgagees of the land;

(c) names of tenants (including persons who are deemed to be tenants under the Goa, Daman and Diu Agricultural Tenancy Act, 1964), if any, of the land;

(d) names of persons holding an encumbrance or any other charge or right on the land;

(e) the nature and extent of the respective interests of such persons and the conditions or liabilities, if any, attaching thereto;

(f) the rent, if any, payable for the land;

(g) such other particulars as the Government may prescribe by rules made in this behalf.

(2) The first preparation of a record of rights in any village shall be made in accordance with such procedure and by such officer as may be prescribed by the Government in this behalf.

(3) The record of rights shall be maintained up-to-date in accordance with the provisions of sections 97 and 98 and such rules as may be prescribed by the Government in this behalf.

97. **Acquisition of rights to be reported.**— Any person acquiring by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, mortgagee, landlord, tenant (including a person deemed to be a tenant under the Goa, Daman and Diu Agricultural Tenancy Act, 1964) or Government lessee of any land, shall report orally or in writing his acquisition

of such right to the Talathi within three months from the date of such acquisition, and the said Talathi shall at once give a written acknowledgement of the receipt of such report to the person making it:

Provided that, where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property make the report to the Talathi:

Provided further that, any person acquiring a right with the permission of the Collector or by virtue of a registered document shall be exempted from the obligation to report to the Talathi:

Provided also that, where a person claims to have acquired a right with the permission of the Collector where such permission is required under the provisions of this Code or any law for the time being in force, such person shall on being required by the Talathi so to do produce such evidence of the order by which such permission is given.

Explanation I— The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to a mortgage of the kind specified in section 100 of the Transfer of Property Act, 1882.

Explanation II— A person in whose favour a mortgage is discharged or extinguished, or lease determined, acquires a right within the meaning of this section.

Explanation III— For the purpose of this Chapter the term «Talathi» includes any person appointed by the Collector to perform the duties of a Talathi under this Chapter.

98. **Register of mutations and register of disputed cases.**— (1) The Talathi shall enter in a register of mutations in such form as may be prescribed every report made to him under section 97 or any intimation of acquisition or transfer under section 103 or from any Collector.

(2) Whenever a Talathi makes an entry in the register of mutations, he shall at the same time post up a complete copy of the entry in a conspicuous place in the village or where there is a village panchayat, on the notice board of such panchayat, and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(3) When any objection to any entry made under sub-section (1) in the register of mutation is made either orally or in writing to the Talathi, it shall be the duty of the Talathi to enter the particulars of the objections in a register of disputed cases. The Talathi shall at once give a written acknowledgement for the objection to the person making it in the prescribed form.

(4) Disputes entered in the register of disputed cases shall as far as possible be disposed of within one year by a revenue or survey officer not below the rank of an Aval Karkun and orders disposing of objections entered in such register shall be recorded in the register of mutations by such officer in such manner as may be prescribed by rules made by the Government in this behalf.

(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the Government in this behalf:

Provided that, an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

(6) Entries in the register of mutations shall be tested and if found correct, or after correction, as the case may be, shall be certified by any revenue or survey officer not below the rank of an Aval Karkun in such manner as may be prescribed:

Provided that no such entries shall be certified unless notice in that behalf is served on the parties concerned.

99. Register of cultivators and crops.—A register showing the crops grown on the land every year and the name of the cultivator growing them shall be prepared in every village in such form and maintained in such manner and by such officer as may be prescribed by Government in this behalf.

Explanation.—For the purpose of this section, "cultivator" means a person who cultivated land whether as owner, tenant, sub-tenant or mortgagee-in-possession or in any other capacity.

100. Obligation to furnish information.—(1) Any person whose rights, interests or liabilities are required to be, or have been entered in any record or register, under this Chapter shall be bound, on the requisition of any revenue officer or Talathi engaged in compiling or revising the record or register, to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power.

(2) A revenue officer or a Talathi to whom any information is furnished or before whom any document is produced in accordance with the requisition under sub-section (1), shall at once give a written acknowledgement thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature stating the fact of its production and the date thereof and may return the same immediately after keeping a copy of it, if necessary.

101. Fine for neglect to afford information.—Any person neglecting to make the report required by section 97, or furnish the information or produce the documents required by section 100 within the period specified in that section shall be liable, at the discretion of the Collector, to be charged a fine not exceeding twenty-five rupees, which shall be leviable as an arrear of land revenue.

102. Requisition of assistance in preparation of maps.—Subject to rules made in this behalf by the Government—

(a) any revenue officer or a Talathi may for the purpose of preparing or revising any map or plan required for, or in connection with any record or register under this Chapter exercise any of the powers of a survey officer under sections 58 and 59 except the power of assessing the cost of hired labour under section 59, and

(b) any revenue officer of a rank not lower than that of an Assistant or Deputy Collector or of a survey officer may assess the cost of the preparation or revision of such map or plan and all contingent expenses, including the cost of clerical labour and supervision, on the lands to which such maps or plans relate and such costs shall be recoverable as a revenue demand.

103. Intimation of transfers by registering officers.—When any document purporting to create, assign or extinguish any title to, or any charge on, land used for agricultural purposes, or in respect of which a record of rights has been prepared is registered under the Indian Registration Act, 1908, the officer registering the document shall send intimation to the Talathi of the village in which the land is situate and to the Mamlatdar of the Taluka, in such form and at such times as may be prescribed by rules made under this Code.

104. Correction of clerical errors.—The Collector may, at any time, correct or cause to be corrected any clerical errors and any errors which the parties interested admit to have been made in the record of rights or registers maintained under this Chapter or which a revenue officer may notice during the course of his inspection:

Provided that, when any error is noticed by a revenue officer during the course of his inspection, no such error shall be corrected unless a notice has been given to the parties and objections, if any, have been disposed of finally in accordance with the procedure relating to disputed entries.

105. Land records.—In addition to the map, the registers and the record of rights, there shall be prepared for each village such other land records as may be prescribed.

106. Presumption of correctness of entries in record of rights and register of mutations.—An entry in the record of rights, and a certified entry in the register of mutation shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

107. Bar of suits.—No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any record or register that is maintained under this Chapter or to have any such entry omitted or amended.

108. Record of rights at commencement of Code.—Until the record of rights for any area is prepared in accordance with the provisions of this Chapter the existing record of rights in force in that area under any law for the time being in force, shall be deemed to be the record of rights prepared under this Chapter.

109. Maps and other records open to inspection.—Subject to such rules and on payment of such fees, if any, as may be prescribed, all maps and land records shall, subject to such restriction as may be imposed, be open to inspection by the public during office hours, and certified extracts therefrom or certified copies thereof may be given to all persons applying for the same.

110. Power to transfer duty of maintaining maps and records to settlement officers.— When a local area is under settlement, the duty of maintaining the maps and record under the order of the Government shall be transferred from the Collector to the Settlement Officer.

CHAPTER IX

Boundaries and boundary marks

111. Fixation and demarcation of boundaries.— Boundaries of all villages and of all survey numbers in villages therein shall be fixed and demarcated by boundary marks.

112. Determination of village boundaries.— The boundaries of villages shall be fixed, and all disputes relating thereto shall be determined by survey officers, or by such other officers as may be appointed by the Government for the purpose, after holding a formal inquiry at which the village officers and all persons interested have an opportunity of appearing and producing evidence.

113. Determination of field boundaries.— If at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village officers then present, it may be laid down as pointed out by the holder or person in occupation and, if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the survey officer according to the land records and according to occupation as ascertained from the village officers and the holders of adjoining lands, or on such other evidence or information as the survey officer may be able to procure.

114. Disputes regarding boundaries between villages, survey numbers and sub-divisions.— If any dispute arises concerning the boundary of a village or a field or a holding which has not been surveyed, or if at any time after the completion of a survey a dispute arises concerning the boundary of any village or survey number or sub-division of a survey number, it shall be decided by the Collector after holding a formal inquiry at which the village officers and all persons interested shall have an opportunity of appearing and producing evidence.

115. Demarcation of boundaries of survey number or sub-division.— (1) The Collector may, on the application of a party interested, demarcate the boundaries of a survey number or of a sub-division and construct boundary marks thereon.

(2) The Government may make rules for regulating the procedure of the Collector in demarcating the boundaries of a survey number or of a sub-division, prescribing the nature of the boundary marks to be used, and authorising the levy of fees from the holders of land in a demarcated survey number or sub-division.

(3) Survey numbers and sub-divisions demarcated under the provisions of this section shall be deemed to be survey numbers for the purposes of sections 111, 114, 117 and 118.

116. Effect of settlement of boundary.— (1) The settlement of a boundary under this Chapter shall be determinative:—

(a) of the proper position of the boundary lines or boundary marks; and

(b) of the rights of the holders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

(2) Where a boundary has been so fixed, the Collector may at any time summarily evict any person who holds land and who is wrongfully in possession of any land which has been adjudged in the settlement of boundary not to appertain to his holding or to the holding of any person through or under whom he claims.

(3) An order of ejectment under sub-section (2) shall, subject to the provisions of sub-section (4) and (5), be subject to appeal and revision in accordance with the provisions of this Code.

(4) Where any person has been ejected or is about to be ejected from any land under the provisions of sub-section (2), he may, within a period of one year from the date of the ejectment or the settlement of the boundary, institute a civil suit to establish his title thereto:

Provided that, the Government or the Collector, or any revenue or survey officer as such, shall not be made a party to such suit.

(5) Where a civil suit has been instituted under sub-section (4) against any order of ejectment, such order shall not be subject to appeal or revision.

(6) The Collector may at any time make an order for redistribution of land revenue which, in his opinion, should be made as a result of the decision of the appeal or revision or as the case may be, the suit, and such redistribution shall take effect from the beginning of the revenue year following the date of the order.

117. Construction and repair of boundary marks of survey number and villages etc.— (1) It shall be lawful for any survey officer authorised in this behalf to erect or cause to be constructed, laid out, maintained or repaired, boundary marks, survey marks of villages or survey numbers or sub-divisions and to assess all charges incurred thereby on the holders or others having an interest therein.

(2) Such officer may by notice in writing require landholders to construct, lay out, maintain or repair within a specified time, the boundary marks or survey marks of their respective survey numbers or sub-divisions; and on their failure to do so the survey officer shall construct, lay out or repair them and assess all charges incurred thereby as hereinbefore provided.

(3) The boundary marks and survey marks shall be of such description, and shall be constructed, laid out, maintained or repaired in such manner and shall be of such dimension and materials as may, subject to rules made by the Government in this behalf, be determined by the Superintendent of Surveys and Land Records, according to the requirement of soil, climate, durability and cheapness of materials.

118. Responsibility for maintaining boundary marks.— Every person who holds land or is in possession thereof shall be responsible for the maintenance and good care of the boundary marks and survey marks of his holding and for any charge reason-

nably incurred on account of the same by the revenue officers in case of alteration, removal or disrepair. It shall be the duty of the Revenue Officers to prevent the destruction or unauthorised alteration of the village boundary marks or survey marks.

119. Collector to have charge of boundary marks.— After the introduction of survey and settlement in a district, the charge of the boundary marks and survey marks shall devolve on the Collector, and it shall be his duty to take measures for their construction, laying out, maintenance and repair and for this purpose the powers conferred on survey officers by section 117 shall vest in him.

120. Penalty for injuring boundary marks.— Any person wilfully erasing, removing or injuring a boundary mark or survey mark, shall on summary inquiry by a revenue officer, be liable to a penalty not exceeding fifty rupees for each mark so erased, removed or injured.

CHAPTER X

Realisation of Land Revenue and other public demands

121. Claims of Government to have precedence over all others.— (1) Land revenue assessed on any land and the arrears thereof and all claims of the Government to moneys recoverable under the provisions of this Chapter, shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgement, decree, execution or attachment or otherwise howsoever, against any land or the holder thereof.

(2) The claim of the Government to any monies other than arrears of land revenue, but recoverable as a revenue demand under the provisions of this Chapter, shall have priority over all unsecured claims against any land or holder thereof.

122. Payment of Land Revenue.— Land revenue shall be payable at such times, in such instalments, to such persons, and at such places as may be prescribed.

123. Arrear of land revenue.— (1) Any instalment of land revenue or part thereof which is not paid on or before the due date shall become an arrear of land revenue and the persons responsible for the payment become defaulters.

(2) A statement of account certified by the Mamlatdar shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear, of its amount and of the person who is the defaulter:

Provided that nothing in this sub-section shall prejudice the right of such person to make payment under protest and to question the correctness of the account in separate proceedings before the competent authority.

(3) On receipt of such a certified statement of account it shall be lawful for the Collector, the Assistant or Deputy Collector or the Mamlatdar in one district to proceed to recover the demands of the Collector of any other district under the provisions of this Chapter as if the demand arose in his own district.

124. Recovery of arrears.— An arrear of land revenue may be recovered by any one or more of the following processes, namely:—

(a) by serving a written notice of demand on the defaulter under section 125.

(b) by distraint and sale of the defaulter's movable property under section 126;

(c) by forfeiture of the holding in respect of which the arrear is due under section 128;

(d) by the attachment and sale of the defaulter's immovable property, under section 129;

(e) by arrest and imprisonment of the defaulter under section 130.

125. Notice of demand.— (1) The form and contents of the notice of demand and the Officers by whom notices shall be issued shall be such as may be prescribed.

(2) A notice of demand may be issued on or after the day following that on which the arrear accrues.

126. Distraint and sale of defaulter's movable property.— (1) The Collector may also cause the defaulter's movable property to be distrained and sold.

(2) Such distraint and sale of the movable property of a defaulter shall be made by such officers or class of officers, in such manner and in accordance with such procedure, as may be prescribed.

(3) Nothing in sub-section (1) shall be deemed to authorise the distraint or sale of any property which, under the Code of Civil Procedure, 1908, or any other law for the time being in force, is exempt from attachment or sale in execution of a decree or of any article set aside exclusively for religious use.

127. Resort to other processes.— When the Collector is of opinion that the processes referred to in clause (a) and (b) of section 124 are not sufficient for the recovery of an arrear of land revenue he may resort to the processes referred to in clause (c), (d) or (e) of section 124 as he may deem expedient.

128. Holding for which arrear is due may be forfeited.— The Collector may declare the holding in respect of which an arrear of land revenue is due, to be forfeited to the Government, and subject to rules made in his behalf, sell or otherwise dispose of the same under the provisions of section 47 or 48 and credit the proceeds, if any, to the defaulters' accounts:

Provided that, the Collector shall not declare any such holding to be forfeited—

(a) unless previously thereto he shall have issued a proclamation and written notices of the intended declaration in the manner provided by section 134 and 135 for sales of immovable property, and

(b) until after the expiration of at least fifteen days from the latest date on which any of the said notices shall have been affixed as required by section 135.

129. Sale of defaulter's immovable property.— The Collector may also cause the right, title and interest of the defaulter in any immovable property

other than the land on which the arrear of land revenue is due to be similarly attached and sold.

130. Arrest and detention of defaulter. — At any time after any arrear becomes due, the defaulter (not being an agriculturist from whom such arrear in respect of his occupancy is due) may be arrested and detained in custody in the civil jail unless the revenue due together with the penalty or interest and the cost of arrest and of notice of demand and the cost of his subsistence during detention is sooner paid. For this purpose the Collector may issue a warrant in the prescribed form:

Provided that, no such arrest shall be made unless the default is wilful and the defaulter is given an opportunity to show cause against his arrest and detention.

131. Power to arrest by whom to be exercised. — The Government may from time to time declare by what officers or class of officers, the powers of arrest conferred by section 130 may be exercised, and also fix the costs of arrest and the amount of subsistence money to be paid by the Government to any defaulter under detention.

132. But all processes to be stayed on security being given. — (1) Any defaulter detained in custody, shall forthwith be set at liberty and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or if the defaulter is in jail, before the officer in charge of such jail, security in the prescribed form satisfactory to the Collector or to such officer.

(2) Any person against whom proceedings are taken under this Chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment, the proceedings shall be stayed.

133. Sale to be by auction. — All sales of property, movable or immovable, under this Chapter shall be by public auction held in accordance with the provisions of the next succeeding sections.

134. Procedure in effecting sales. — (1) When any sale of either movable or immovable property is ordered under the provisions of this Chapter, the Collector shall issue a proclamation in the prescribed form with its translation in such language as the Administrator of Goa, Daman and Diu may in this behalf prescribe, of the intended sale, specifying the time and place of sale, and in the case of movable property whether the sale, is subject to confirmation or, not and when land paying revenue to the Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

(2) Such proclamation shall be made by beat of drum at the head quarters of the taluka and in the village in which the immovable property is situated if the sale be of immovable property; and if the sale be of movable property, the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

135. Notification of sales. — (1) A written notice of the intended sale of immovable property, and

of the time and place thereof, shall be affixed in each of the following places, namely: —

- (a) the office of the Collector of the district,
- (b) the office of the Mamlatdar of the taluka in which the immovable property is situated,
- (c) the office of the village panchayat, or some other public building in the village in which it is situate, and
- (d) the defaulter's dwelling place.

(2) In the case of movable property, the written notice shall be affixed in the Mamlatdar's office, and in the office of the village panchayat, or some other public building in the village in which such property was seized.

(3) The Collector may also cause notice of any sale, whether of movable or immovable property, to be published in any other manner that he may deem fit.

(4) A notice referred to in this section shall be in such form as may be prescribed.

136. Sale by whom to be made; time of sale, etc. —

(1) Sales by auction shall be made by such person as the Collector may direct.

(2) No such sale shall take place on a Sunday or other public holiday, nor until after the expiration of at least thirty days in the case of immovable property, or seven days in the case of movable property, from the latest date on which any of the said notices shall have been affixed as required by section 135.

137. Postponement of sale. — The sale may from time to time be postponed for any sufficient reason:

Provided that, when the sale is postponed for a period longer than thirty days, a fresh proclamation and notice shall be issued unless the defaulter consents to waive it.

138. Sale of perishable articles. — Nothing in section 134, 135, 136 and 137 applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay, in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf.

139. When sale may be stayed. — If the defaulter or any person on his behalf, pays the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the property is knocked down, to the person prescribed under section 123 to receive payment of the land revenue due, or to the officer appointed to conduct the sale or if he furnishes security under section 132, the sale shall be stayed.

140. Sales of movable property when liable to confirmation. — Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of movable property shall be finally concluded by the officer conducting such sales or shall be subject to confirmation, as may be directed in orders to be made by the Collector either generally or specially in that behalf. In the case of sales made subject to confirmation, the Collector shall direct by whom such sales may be confirmed.

141. Mode of payment for movable property when sale is concluded at once. — When a sale of movable property is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as the said officer shall direct, and in default of such payment, the property shall forthwith be again put up and sold. On payment of the purchase money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

142. Mode of payment when sale is subject to confirmation. — (1) When sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum of the amount of his bid, and in default of such deposit, the property shall forthwith be again put up and sold.

(2) The full amount of purchase-money shall be paid by the purchaser before the sunset of the third day after he is informed of the sale having been confirmed, or if the said third day be a Sunday or other public holiday, then before sunset of the first working day after such day. On payment of such full amount of the purchase money, the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

143. Deposit by purchaser in case of sale of immovable property. — In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum of the amount of his bid, and in default of such deposit, the property shall forthwith be again put up and sold.

144. Purchase money when to be paid. — The full amount of purchase money shall be paid by the purchaser before the expiration of two months from the date, on which the sale of the immovable property took place or before the expiration of fifteen days from the date on which the intimation of confirmation of the sale is received by the purchaser, whichever is earlier:

Provided that, if the last date on which the purchase money is to be paid happens to be a Sunday or other authorised holiday, then the payment shall be made before the sunset of the first office day after such date.

145. Effect of default. — In default of payment within the prescribed period of the full amount of purchase-money, whether of movable or immovable property, the deposit after defraying thereout the expenses of the sale, shall be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may be subsequently sold.

146. Liability of purchaser for loss by resale. — If the proceeds of the sale, which is eventually made, be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land revenue.

147. Notification before re-sale. — Every re-sale of property in default of payment of the purchase-

-money, shall, except when such re-sale takes place forthwith, be made after the issue of a fresh notice in the manner prescribed for original sale.

148. Setting aside sales of movables. — Sales of movables, except perishable articles, may be set aside on the ground of some material irregularity or mistake in publishing or conducting it if a person (on application made within seven days from the date of sale) proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

149. Application to set aside sale of immovables. — (1) At any time within thirty days from the date of sale of immovable property an application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it; but, except as is otherwise provided in section 150, 151 and 152 no sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

(2) If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

150. Order confirming or setting aside sale. — On the expiration of thirty days from the date of the sale, if no such application as is mentioned in section 149 has been made, or if such application has been made and rejected, the Collector shall make an order confirming the sale:

Provided that, if he has reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been rejected, he may, after recording his reasons in writing, set aside the sale.

151. Purchaser may apply to set aside sale under certain circumstances. — Except in a case where land has been sold for arrears which form a charge on the land, the purchaser may, at any time within thirty days from the date of sale, apply to the Collector to set aside the sale on the ground that the defaulter had no saleable interest in the property sold; and the Collector shall, after due enquiry, pass such orders on such application as he deems fit.

152. Application to set aside sale by person owning or holding interest in property. — (1) Where immovable property has been sold under this Code, any person either owning such property or holding an interest therein by virtue of a title acquired before such sale may, at any time within thirty days from the date of sale, apply to the Collector to have the sale set aside on his depositing: —

(a) for payment to the purchaser a sum equal to five per cent, of the purchase money;

(b) for payment on account of the arrear, the amounts specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may have been paid since the date of sale on that account; and

(c) the cost of the sale.

(2) If such deposit is made within thirty days from the date of sale, the Collector shall pass an order setting aside the sale.

153. Refund of deposit or purchase-money when sale set aside. — Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be, and the sum equal to five per cent. of the purchase-money deposited under clause (a) of sub-section (1) of section 152.

154. On confirmation of sale, purchaser to be put in possession. Certificate of purchase. — After a sale of any occupancy has been confirmed in the manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land and shall cause his name to be entered in the land records as occupant or holder in lieu of that of the defaulter and shall grant him a certificate to the effect that he has purchased the land to which the certificate refers.

155. Bar of suit against certified purchaser. — The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a civil court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

156. Application of proceeds of sale. — (1) When any sale of movable property under this Chapter has become absolute, and when any sale of immovable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land revenue and any other sum recoverable from the defaulter as an arrear of land revenue and notified to the Collector before the confirmation of such sale, and the surplus, if any, shall be paid to the person whose property has been sold.

(2) The expenses of sale shall be estimated at such rates and according to such orders as may from time to time be sanctioned by the Government.

157. Surplus not to be paid to creditors except under order of court. — The said surplus shall not, except under an order of a civil court, be payable to any creditor of the person whose property has been sold.

158. Certified purchaser liable only for land revenue subsequently due. — Notwithstanding anything contained in section 54, the person named in the certificate of title as purchaser shall not be liable for land revenue due in respect of the land for any period previous to the date of the sale.

159. Purchaser's title. — Where immovable property is sold under the provisions of this Chapter and such sale has been confirmed, the property shall be deemed to have vested in the purchaser on the date when the property is sold and not on the date when the sale was confirmed.

160. Claims to attached property how to be disposed of. — (1) If any claim is set up by a third person to the property attached or proceeded against under the provisions of this Code, the Collector may on a formal inquiry held after reasonable notice, admit or reject it.

(2) The person against whom an order is made under sub-section (1) may, within one year from the date of the order, institute a suit to establish the right which he claims to the property attached or proceeded against; but subject to the result of such suit, if any, the order shall be conclusive.

161. Bar of revenue officer to bid etc. at sale. — Except as provided in section 162 no officer or other person having any duty to perform in connection with any sale shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

162. Purchase on nominal bid. — Where at any sale held under the provisions of this Chapter, there is no bidder or the bids made are inadequate or nominal, it shall be lawful for the Collector to authorise any of his subordinates to purchase such property on behalf of the Government for such bid as such subordinate may make:

Provided that, if the property so purchased is subsequently sold by the Government within twelve years of the purchase, the following amounts shall be recovered from the sale proceeds and the surplus, if any, shall be paid to the person whose property has been sold, namely:

(a) dues, that is, the principal outstandings with interests;

(b) loss of revenue, if any, caused to the Government during the period the land remains with the Government and no person takes it on lease or otherwise;

(c) actual expenditure incurred in the auction sale;

(d) penalty equal to one-fourth of the principal.

163. Sum recoverable under provisions of this Chapter. — All sums due on account of land revenue, rent, cesses, profits from land, fees, charges, fines, penalties, water rates, royalty, costs, payable or leviable under this Code; and all sums declared by this Code or any law for the time being in force or by any agreement or contract with the Government to be leviable as an assessment, or as a revenue demand, or as an arrear of land revenue, shall be levied under the foregoing provisions of this Chapter and all the provisions of this Chapter shall, so far as may be, be applicable thereto.

164. Recovery of free grants as arrear of revenue in case of misuse. — Any person who has received from the Government a free grant of money for any agricultural purpose, subject to the condition that he shall refund the same on failure to observe any of the conditions of the grant, shall, on failure to observe any such condition and to repay the said sum to the Government be liable to be proceeded against under the provisions of this Chapter as a revenue defaulter; and all the foregoing provisions of this Chapter shall, so far as may be, be applicable to such person.

165. Recovery of monies from surety. — Every person who may have become a surety under any of the provisions of this Code, or under any other enactment or any grant, lease or contract whereunder the sum secured is recoverable from the principal as an arrear of land revenue shall, on failure to pay the amount or any portion thereof which he

may have become liable to pay under the terms of his security bond, be liable to be proceeded against under the provisions of this Code as a revenue defaulter; and all the foregoing provisions of this Chapter shall, so far as may be, be applicable to such person.

CHAPTER XI

Procedure of Revenue Officers

166. Revenue Court. — (1) A revenue officer not below the rank of Mamlatdar, while exercising jurisdiction under this Code or any other law for the time being in force to inquire into or to decide any question arising for determination between the Government and any person or between parties to any proceedings, shall be a revenue court.

(2) A revenue Court shall be deemed to be a Civil Court for the purposes of enquiries under this Code.

167. Place of hearing. — Except for reasons to be recorded in writing no revenue officer shall inquire into or hear any case at any place outside the local limits of his jurisdiction:

Provided that a Sub-Divisional Officer may inquire into or hear any case at the headquarters of the district to which he is appointed.

168. Powers to enter upon and survey land. — All revenue and survey officers and persons acting under their order may enter upon and survey any land and demarcate boundaries and do all other acts necessary for the purpose of discharging their duties under this Code or any other law for the time being in force, but, in so doing, shall cause no more damage than the circumstances of the case may require.

Provided that, no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house, unless with the consent of the occupier thereof, without giving such occupier at least twenty-four hours' notice, and in making such entry due regard shall be paid to the social and religious sentiments of the occupier.

169. Power to transfer cases. — Whenever it appears to the Government that an order under this section is expedient for the ends of justice, it may direct that any particular case be transferred from one revenue officer to another revenue officer of an equal or superior rank.

170. Power to transfer cases to and from subordinates. — (1) A Collector, a Sub-Divisional Officer or a Mamlatdar may make over any case or class of cases, arising under the provisions of this Code or any other enactment for the time being in force for decision from his own file to any revenue officer subordinate to him competent to decide such case or class of cases or may withdraw any case or class of cases from any such revenue officer and may deal with such case or class of cases himself or refer the same for disposal to any other revenue officer competent to decide such case or class of cases.

(2) A Collector, a Sub-Divisional Officer, or a Mamlatdar may make over for inquiry and report any case or class of cases arising under the provisions of this Code or any other enactment for the time being in force from his own file to any revenue officer subordinate to him.

171. Power to take evidence, summon witnesses, etc. — (1) Every revenue or survey officer not lower in rank than an Awalkarkun acting as a revenue court shall have power to take evidence and to summon any person whose attendance he considers necessary, to be examined as a party or to give evidence as a witness or to produce any documents, for the purpose of any enquiry which such officer is legally empowered to make; and all persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct, and to produce such documents as may be required.

(2) All persons summoned as aforesaid shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required.

172. Summons to be in writing, signed and sealed; service of summons. — (1) Every summons shall be in writing in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he has a seal shall also bear his seal.

(2) The summons shall be served by tendering or delivering a copy of it to the person summoned or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

(3) If his usual residence be in another district or outside the Union Territory, the summons may be sent by registered post.

173. Compelling attendance of witness. — If any person on whom a summons to attend as witness or to produce any document has been served fails to comply with the summons, the officer by whom the summons has been issued under section 171 may:

- (a) issue a bailable warrant of arrest; or
- (b) order him to furnish security for appearance.

174. Mode of serving notice. — (1) Subject to the provisions of this Code and the rules made thereunder, every notice under this Code may be served either by tendering or delivering a copy thereof, or sending such copy by post to the person on whom it is to be served, or his authorised agent or, if service in the manner aforesaid cannot be made, by affixing a copy thereof at his last known place of residence or at some place of public resort in the village in which the land to which the notice relates is situated.

(2) No such notice shall be deemed void on account of any error in the name or designation of any person, or in the description of any land, referred to therein, unless such error has produced substantial injustice.

175. Procedure for attendance of witnesses. — In any formal or summary inquiry if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, 1908, for parties applying for summonses for witnesses.

176. Hearing in absence of party. — (1) If on the date fixed for hearing a case or proceeding, a revenue officer or survey officer finds that a summons or notice was not served on any party due to the

failure of the opposite party to pay the requisite process fees for such service, the case or proceeding may be dismissed in default of payment of such process fees.

(2) If any party to a case or proceeding before the revenue officer or survey officer does not appear on the date fixed for hearing, the case may be heard and determined in his absence or may be dismissed in default.

(3) The party against whom any order is passed under sub-section (1) or (2) may apply within 30 days from the date of such order to have it set aside on the ground that he was prevented by any sufficient cause from paying the requisite process fees for service of a summons or notice on the opposite party or from appearing at the hearing and the revenue officer or survey officer may, after notice to the opposite party which was present on the date on which such order was passed and after making such inquiry as he considers necessary, set aside the order passed.

(4) Where an application filed under sub-section (3) is rejected, the party aggrieved may file an appeal to the authority to whom an appeal lies from an original order passed by such officer.

(5) Except as provided in sub-section (4) or except where a case or proceeding before any such officer has been decided on merits, no appeal shall lie from an order passed under this section.

177. Adjournment of hearing.—(1) A revenue or survey officer may, from time to time for reason to be recorded, adjourn the hearing of a case or proceeding before him.

(2) The date and place of an adjourned hearing of a case or proceeding shall be intimated at the time of the adjournment to such of the parties and witnesses as are present.

178. Mode of taking evidence in formal inquiries.—

(1) In all formal inquiries the evidence shall be taken down in full, in writing, in such language as the Administrator of Goa, Daman and Diu may in this behalf prescribe, by or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry, and shall be signed by him. The officer shall read out or cause to be read out the evidence so taken to the witness and obtain his signature thereto in token of its correctness.

(2) In cases in which the evidence is not taken down in full in writing by the officer making the inquiry he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

(3) If such officer is prevented from making a memorandum as required aforesaid, he shall record the reason of his inability to do so.

(4) When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the regional language shall be made and shall form part of the record.

179. Writing and explanation of decisions.—Every decision, after a formal inquiry, shall be in writing signed by the officer making the same, and shall contain a full statement of the grounds on which it is made.

180. Summary inquiries how to be conducted.—In summary inquiries, the revenue officer or survey officer shall himself, as any such inquiry proceeds, record, a minute of the proceedings in his own hand in English or in regional language embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same:

Provided that, it shall at any time be lawful for such officer to conduct an inquiry directed by this Code to be summary under all, or any of the rules applicable to a formal inquiry, if he deems fit.

181. Formal and summary inquiries to be deemed judicial proceedings.—(1) A formal or summary inquiry under this Code shall be deemed to be a judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a civil court for the purposes of such inquiry.

(2) Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorised agents shall have due notice to attend.

182. Ordinary inquiries how to be conducted.—An inquiry which this Code does not require to be either formal or summary, or which any revenue or survey officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Government, or an authority superior to the officer conducting such inquiry, and except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

183. Copies and translations, etc., how to be obtained.—In all cases in which formal or summary inquiry is made, authenticated copies and translation of decisions, orders, and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them on due application being made for the same, subject to such charges for copying, searches, inspection and other like matters as may, from time to time, be prescribed by the Government.

184. Arrest of defaulter to be made upon warrant.—Whenever it is provided by this Code that a defaulter, or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

185. Collector how to proceed in order to evict any person wrongfully in possession of land.—Whenever it is provided by this Code or by any other law for the time being in force that the Collector may or shall evict any person wrongfully in possession of

land, such eviction shall be made in the following manner, that is to say, —

(a) by serving a notice on the person or persons in possession requiring them (within such time as may appear reasonable after receipt of the said notice) to vacate the land, and

(b) if such notice is not obeyed, by removing, or deputing a subordinate to remove, any person who may refuse to vacate the same, and

(c) if the officer removing any such person be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance send him with a warrant, in the prescribed form for imprisonment in the civil jail of the district for such period not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

186. Power to give and apportion costs. — A revenue or survey officer may give and apportion costs incurred in any case or proceeding arising under this Code or any other law for the time being in force in such manner and to such extent as he thinks fit:

Provided that, the fees of a legal practitioner shall not be allowed as costs in any such case or proceedings, unless such officer considers otherwise for reasons to be recorded by him in writing.

187. Appearances before and applications to revenue officers. — All appearances before, applications to and acts to be done before, any revenue or survey officer under this Code or any other law for the time being in force may be made or done by the parties themselves or by their authorised agents or by any legal practitioner:

Provided that, subject to the provisions of section 132 and 133 of the Code of Civil Procedure 1908 any such appearance shall, if the revenue officer so directs, be made by the party in person.

188. Correction of error or omission. — Any revenue officer by whom any order was passed in a case or proceeding may, either on his own motion or on the application of a party, correct any error or omission not affecting a material part of the case or proceeding, after such notice to the parties as he may consider necessary.

CHAPTER XII

Appeals, Revision and Review

189. Appeals. — (1) Save as otherwise expressly provided, an appeal shall lie from every original order, other than an interim order passed under this Code —

(a) if such an order is passed by an officer subordinate to the Sub-Divisional Officer, to the Sub-Divisional Officer;

(b) if such an order is passed by the Sub-Divisional Officer, to the Collector;

(c) if such an order is passed by the Collector, to the Tribunal;

(d) if such an order is passed by an Assistant Survey and Settlement Officer, to the Survey and Settlement Officer or to a revenue officer notified by the Government in the Official Gazette to be the appellate authority;

(e) if such an order is passed by a Survey and Settlement Officer, to the Director of Settlement and Land Records or to a revenue officer notified to be the appellate authority; and

(f) if such an order is passed by the Inspector of Surveys and Land Records, to the Superintendent of Surveys and Land Records.

(2) A second appeal shall lie against any order passed in first appeal:

(a) if such an order is passed under clause (a) of sub-section (1), to the Collector;

(b) if such an order is passed under clause (b) of sub-section (1), to the Tribunal;

(c) if such an order is passed under clause (d) of sub-section (1), to the Director of Settlement and Land Records or to a Revenue Officer notified by the Government in the Official Gazette to be the second appellate authority; and

(d) if such an order is passed under clause (e) or (f) of sub-section (1), to the Tribunal.

190. Limitation of appeals. — No appeal shall lie, —

(a) in the case of a first appeal, after the expiry of sixty days from the date of the order appealed against; and

(b) in the case of a second appeal, after the expiry of sixty days from the date of the order appealed against.

191. Copy of order to accompany petition of appeal. — Every petition for appeal, review or revision shall be accompanied by a certified copy of the order to which objection is made unless the production of such copy is dispensed with.

192. Power of appellate authority. — (1) The appellate authority may either admit the appeal or, after calling for the record and giving the appellant an opportunity to be heard, may summarily reject it:

Provided that, the appellate authority shall not be bound to call for the record where the appeal is time barred or does not lie.

(2) If the appeal is admitted, a date shall be fixed for hearing and notice thereof shall be served on the respondent.

(3) After hearing the parties, if they appear, the appellate authority may, for reasons to be recorded in writing, either annul, confirm, modify, or reverse the order appealed against, or may direct such further investigation to be made, or such additional evidence to be taken, as it may think necessary; or may itself take such additional evidence; or may remand the case for disposal with such directions as it thinks fit.

193. Revision. — The Government or any revenue officer above the rank of a Mamlatdar or Inspector of Surveys and Land Records may, at any time,

either on his own motion or on the application of any party, call for the records of any inquiry or proceedings before any revenue or survey officer subordinate to him for the purpose of satisfying himself or himself, as the case may be, as to the legality or the propriety of any decision or order passed by such revenue or survey officer or as to the regularity of the proceedings of such officer and may pass such order in reference thereto as deemed fit or necessary:

Provided that such order shall not vary or reverse any existing right without giving to the parties interested notice to appear and be heard.

Provided also that no such record shall be called for after the expiry of one year from the date of the order sought to be revised or before the expiry of the appeal period or during the pendency of an appeal against such order.

194. Review of orders. — (1) The Tribunal or revenue or survey officer may, either on its or his own motion or on the application of any party interested, review any order passed by itself or himself or by any of its or his predecessors-in-office and pass such order in reference thereto as it or he thinks fit;

Provided that a revenue officer subordinate to the Collector or Settlement Officer or Superintendent of surveys shall, before reviewing any order under this section, obtain the permission of the Collector, Director of Settlement and Land Records and the Collector or the Director of Settlement and Land Records shall, before reviewing an order passed by any of his predecessors-in-office, obtain the permission of the Government, if the review is to be made on the ground other than that of clerical mistake.

(2) No order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings and except by notice to the other party, and no application for the review of such order shall be entertained unless it is made within ninety days from the date of the order.

(3) No order shall be reviewed except on the following grounds, namely:—

- (i) discovery of new and important matter of evidence; or
- (ii) some mistake or error apparent on the face of the record; or
- (iii) any other sufficient reason.

(4) For the purpose of this section, the Collector shall be deemed to be the successor-in-office of any revenue officer who has left the district or who has ceased to exercise powers as a revenue officer and to whom there is no successor in the district.

(5) An order which has been dealt with in appeal or in revision shall not be reviewed by any officer subordinate to the appellate or revisional authority.

(6) A revenue or survey officer shall not of his own motion review any order under this section if the order has been made more than six months previously.

(7) Orders passed in review shall on no account be reviewed.

195. Appeal passed against review or revision. — (1) An order passed in review varying or reversing any order shall be appealable in the like manner as an original decision or order.

(2) An order passed in revision varying or reversing any order shall be appealable as if it were an order passed by the revisional authority in appeal.

196. Application of limitation Act, 1963. — Provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of appeals or applications for revision and review under the Act.

197. Stay of execution of orders. — (1) A revenue or survey officer who has passed any order or his successor-in-office may, at any time before the expiry of the period prescribed for appeal, direct the stay of execution of such order for such period as he thinks fit, provided that no appeal has been filed.

(2) Any authority before whom a case is pending in appeal or revision may direct the stay of execution of the order appealed from or under revision for such period as it may think fit.

(3) The revenue officer or other authority directing such stay of execution of any order may impose such condition, or order such security to be furnished, as he or it may think fit.

198. Rules as to decisions or orders expressly made final. — Whenever in this Code it is provided that a decision or order shall be final or conclusive, such provision shall mean that no appeal lies from any such decision or order; but it shall be lawful to the Government alone to modify, annul or reverse any such decision or order under the provisions of section 193.

CHAPTER XIII

Miscellaneous

199. Delegation of powers. — The Government may by notification delegate any of the powers and duties conferred upon the Government or any officer under this Code, to any revenue officer subject to such conditions, if any, as may be specified in the notification.

200. Power to make rules. — (1) The Government may, by notification in the Official Gazette, make rules for carrying into effect the provisions of this Code.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters:—

- (i) under section 4, appointment of other village officers, and servants;
- (ii) under section 8, the registers, accounts and other records to be kept by the village officers;
- (iii) under section 9, the powers and duties to be performed by the officers specified in clauses (b), (d), (e) and (g) of section 4;
- (iv) under section 21, rules for the disposal of land belonging to or vesting in the Central Government;
- (v) under sub-section (2) of section 22, rules for the disposal of alluvial land;

- (vi) under sub-section (4) of section 25, the premium to be paid;
- (vii) under section 27, the rules subject to which the Collector may lease under grant or contract any unoccupied land;
- (viii) under section 32, the rules subject to which the Collector or survey officer may prohibit the use of land for other purposes and summarily evict any holder who uses such land for such prohibited purpose;
- (ix) under sub-section (1), the form of application for permission to convert the use of land from one purpose to another; under clause (c) of sub-section (2), the rules subject to which permission for change of user may be granted by the Collector; and under sub-section (3), of section 33 the conditions subject to which the permission for change of user shall be deemed to have been granted; under sub-section (5), the rules prescribing the fine which the defaulter shall be liable to pay; and under sub-section (6) of section 33, the form in which sanad shall be granted to the holder for non-agricultural use;
- (x) under sub-section (1) of section 34, the rules prescribing the fine to be paid as penalty for using land without permission;
- (xi) under section 36, the rules subject to which the Collector may regularize the non-agricultural use of any land;
- (xii) under sub-section (9) of section 37, the rules to regulate the extraction and removal of minor minerals;
- (xiii) under section 39, the rules subject to which the land shall be granted to the encroacher;
- (xiv) under section 47, rules subject to which holding shall be disposed of;
- (xv) under section 51, the rules subject to which a holder of land shall be entitled to decrease of assessment;
- (xvi) under sub-section (2), of section 52, rules according to which the assessment may be made;
- (xvii) under section 53, the rules in accordance with which reduction, suspension or remission of land revenue in any area may be granted;
- (xviii) under section 61, the rules in accordance with which the records of the area and assessment of survey numbers and sub-divisions thereof shall be maintained;
- (xix) under section 62, the rules in accordance with which the Collector may divide the holding and apportion assessment thereof and the limits of area of land revenue below which partition may be rejected;
- (xx) under section 67, the rate of survey fee;
- (xxi) under section 68, the form of sanad;
- (xxii) under sub-section (1) of section 70, the rules for dividing the lands to be settled into groups and fixing the standard rates for each group;
- (xxiii) under section 72, the manner of ascertaining the average yield of crops of land for the purposes of the settlement and the manner of holding enquiry for that purpose and the manner of submitting report to the Collector;
- (xxiv) under sub-section (1) of section 73, the manner of publication of settlement report;
- (xxv) under sub-section (3) of section 75, scale for levy of surcharge and grant of rebate;
- (xxvi) under sub-section (1) of section 78, other particulars to be shown in the settlement register;
- (xxvii) under section 80, the manner in which land revenue assessment of individual survey numbers and sub-divisions shall be fixed by the Settlement Officer on the basis of their classification value;
- (xxviii) under section 88, the percentage of the full market value of lands and the other manner of publication of the standard rates of non-agricultural assessment, fixed or revised and the manner in which the full market value shall be estimated;
- (xxix) under section 92, the other occupations under clause (1), and the period and conditions under clause (5), thereof;
- (xxx) under sub-section (1), the form of the record of rights and the other particulars which a record of rights shall include, under sub-section (2), the procedure for the first preparation of the record of rights in any village and under sub-section (3) of section 96 the rules for maintaining the record of rights up-to-date;
- (xxxi) under section 98, the form of acknowledgement to be given by the Talathi under sub-section (3), the manner in which orders disposing of objections shall be recorded in the register of mutations under sub-section (4), the rules subject to which transfers of entries from the register of mutations to the record of rights shall be effected under sub-section (5), the manner in which entries in the register of mutations shall be certified under sub-section (6) thereof;
- (xxxii) under section 99, the form of the register of cultivators and crops and the manner in which it shall be maintained;
- (xxxiii) the rules for the purpose of section 102;
- (xxxiv) under section 103, the form in which and the times at which intimation of transfers by registering officers shall be sent;
- (xxxv) under section 105, the other land records to be prepared;
- (xxxvi) under section 109, the rules subject to which, and the fees on payment of which, maps and records shall be open to the inspection of the public and certified extracts from the same or certified copies thereof shall be given;

- (xxxvii) under sub-section (2) of section 115, the rules for regulating the procedure of the Collector in demarcating the boundaries of a survey number or of a sub-division and the nature of the boundary marks to be used and authorising the levy of fees from the holders of land;
- (xxxviii) under section 117, the rules subject to which the Superintendent of Surveys and Land Records may determine the description of the boundary marks and survey marks and the manner in which they shall be constructed, laid out, maintained or repaired and determining dimensions and materials of such boundary and survey marks under sub-section (3) thereof;
- (xxxix) under section 122, the rules providing for the payment of land revenue in instalments and prescribing the dates on which, the persons to whom, and the places whereat, such instalments shall be paid;
- (xL) under sub-section (2) of section 126, the officer or class of officers who shall distrain and sale the movable property of a defaulter and the manner and procedure of doing it;
- (xLi) under section 128, the rules subject to which the holding forfeited to Government may be sold or otherwise disposed of;
- (xLii) under section 130, the form of warrant;
- (xLiii) under sub-section (1) of section 132, the form of warrant;
- (xLiv) under sub-section (1) of section 134, the form of proclamation to be issued, by the Collector;
- (xLv) under sub-section (4) of section 135, the form of notice;
- (xLvi) under section 182, the rules for conducting ordinary inquiries;
- (xLvii) under section 183, the charge for copying, searches inspection and other like matters;
- (xLviii) under section 185, the form of warrant;
- (xLix) any other matter for which rules may be made under this Code.
- (3) All rules made under this Code shall be subject to the condition of previous publication.
- (4) All rules made under this Code shall be laid on the table of the Legislative Assembly for not less than fourteen days, as soon as possible after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid, or the Session immediately following.
- 201. Penalty for breach of rules.**—It shall be lawful for the Government, in making any rule under Section 200, to prescribe that any person committing a breach of the same shall be deemed to have com-

mitted a cognizable offence and on conviction by a magistrate be punished with imprisonment for a term not exceeding one month or with fine not exceeding five hundred rupees, or with both in addition to any other consequence that would ensue from such breach.

202. Repeal.—On the commencement of this Code, the following laws, that is to say—

- (a) Decree No. 3602 dated the 24th November, 1917.
- (b) Portaria Provisional No. 1195 dated the 18th November, 1922.
- (c) Legislative Diploma No. 196 dated the 10th November, 1925.
- (d) Legislative Diploma No. 272 dated the 18th April, 1927.
- (e) Legislative Diploma No. 325 dated the 16th June, 1928.
- (f) Legislative Diploma No. 760 dated the 12th October, 1934.
- (g) Legislative Diploma No. 764 dated the 26th November, 1934.
- (h) Legislative Diploma No. 1740 dated the 26th September, 1957.
- (i) Legislative Diploma No. 1766 dated the 20th March, 1958.

and any other law in force in the Union territory of Goa, Daman and Diu corresponding to any of the provisions of this Code shall stand repealed:

Provided that, the repeal shall not affect—

- (a) the previous operation of any law so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed in so far as it is consistent with the provisions of this Code or the Rules framed thereunder, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed.
- (d) any investigation, proceeding, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, proceeding, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Code had not been passed:

Provided also that, subject to the preceding proviso and any saving provisions made in any of the Chapters of this Code, anything done or any action taken including any rules, assessments, appointments and transfers made, notifications, orders, summons, notices, warrants and proclamations issued, authorities and powers conferred, forms and leases granted, survey and boundary marks fixed, record of rights and other records framed or confirmed, rights acquired, liabilities incurred and times and places appointed under any law so repealed shall, in so far as it is not inconsistent with the provisions of this

Code, be deemed to have been done or taken under the corresponding provisions of this Code; and shall continue to be in force accordingly unless and until superseded by anything done or action taken under this Code.

Memorandum of delegated legislation

Clause 200 of the Bill consolidates at one place the various powers given to Government for framing rules under the various provisions of the Act for carrying into effect the provisions of the Code.

In accordance with the recommendations of the Committee on Subordinate Legislation it has been provided that the rules shall be prepublished and shall be laid on the table of the Legislative Assembly and be subject to such changes as the Assembly may make during the session in which they are so laid or the one immediately following.

The proposed delegation is of a normal character.

Financial memorandum

Clause 4 of the Bill provides for appointment of various categories of Revenue and Survey Officers. It will also be necessary to appoint clerical and similar assistants to these officers. However, the staff contemplated in this clause has already been appointed by Government for the administration of this territory and there will be no immediate need for appointing any staff for the purpose of implementing the provisions of this Code.

Statement of objects and reasons

So far there has not been in this territory any comprehensive legislation governing the administration of lands and land revenue and related matters. The pre-liberation laws in the form of Decree, Diploma and Portaria are still in force and each of these laws deal separately with one or the other aspect of land administration, and is devised according to the Portuguese concepts about these matters. There is, however, very little similarity between these laws and the corresponding laws which are in force in the rest of the country. It has, therefore, been extremely necessary to have for this territory a comprehensive legislation governing the administration of lands, land revenue and related matters.

The Bill seeks to achieve this purpose. The important provisions of this Bill are brought out in the following notes on clauses:

Chapter II: For proper land revenue administration, this chapter contains provisions enabling Government to constitute the territory into one or more districts and to divide these districts into sub-divisions and the sub-divisions into talukas and the talukas into villages. Power is also given to alter the limits of the district, sub-division or taluka. Clause 4 in this chapter empowers Government to appoint the various categories of revenue and survey officers, who would be responsible for performing the various functions and duties under this Code. At the village level there is a provision for the appointment of Village Accountants and Patils.

Chapter III: Clause 14 in this chapter provides that all lands, public roads, lanes, paths and bridges, rivers, streams, nallahs, etc., standing and flowing water, etc., which are not the property of any person, shall be the property of the Central Government subject to right of way and all other rights, public or individual, legally existing. It also contains provisions to enable Government in certain circumstances to extinguish the rights of the public as well as of all individuals in or over public roads or paths not required for public use. There are provisions for assigning lands for special purposes for public use such as free pasturage for village cattle, burial or cremation ground, gaathon, threshing floor, bazaar, roads, parks, drains, etc. Clauses 20 to 45 contain detailed provisions regarding grant of land, use of land, encroachment on land, etc. These provisions embody the principle that land is granted by Government on occupancy tenure (which is prevalent in the States of Maharashtra, Gujarat, Mysore and many other States). They also empower Government to grant leases of land in special cases. Occupancies will be of two classes, Occupants, Class I and Occupants, Class II. Under Occupants Class I, a person will hold land in perpetuity and without any restrictions on the right to transfer the land held by him. Under Occupants Class II, a person will hold land in perpetuity but subject to restrictions on the right to transfer the land held by him. The restrictions are to be prescribed by rules. In order that landless persons, small holders, agricultural labourers, members of Scheduled Castes and Tribes, members of Armed Forces, to whom lands are granted by Government on preferential and concessional basis, do not lose their lands to money lenders and others or do not misuse the concessional grant made to them by Government by immediately selling the land at a higher price, it has been the policy of the State Governments elsewhere to restrict the right of transfer in respect of lands granted to such persons. Such persons will come under Occupants Class II. The rights and liabilities of the occupants are provided for in this chapter. Clauses 30-37 contain provisions regulating use of land. It is provided that the use of the land from agriculture to non-agricultural purpose or from one non-agricultural purpose to another non-agricultural purpose, should not be made without the permission of the Collector. The manner in which this permission is to be obtained is provided for in clause 33. Clause 38-42 contain provisions for dealing with encroachments on Government lands.

Chapter IV: This chapter provides for the levy of land revenue on land and fix the liabilities on the occupants.

Chapter V: This contains necessary provisions to empower Government to undertake survey of all lands. It also empowers Government to undertake city survey of lands in cities and towns.

Chapter VI: This chapter contains detailed provisions as to the manner in which land revenue can be assessed of agricultural lands in the territory, while Chapter VII provides for the assessment and settlement of land revenue of lands used for non-agricultural purposes.

Chapter VIII: Contains provisions which enables Government to prepare and maintain record of rights in land in the territory. This is one of the vital neces-

sities of a pgressive land administration and is the backbone of all land reforms measures.

Chapter IX: Contains provisions regarding fixation and demarcation of boundaries of individual holdings and also provides for the manner in which disputes about boundary shall be settled. It also provides for fixing the responsibility for maintaining the boundary marks.

Chapter X: Contains detailed provisions for the recovery of land revenue and other public demands. With the help of these provisions it would facilitate Government to recover the various dues of Government not only of the Revenue Department but of the various other Departments of Government.

Chapter XI: Contains provisions laying down the procedures to be followed by the various Revenue Officers in conducting enquiries and proceedings under the provisions of this Act.

Panaji,
30th July, 1968

D. B. BANDODKAR
Chief Minister

ASSEMBLY HALL
Panaji,
3rd August, 1968

R. L. SEGEL
Secretary to the Legislative
Assembly of Goa, Daman and Diu